

THE LIMAN CENTER REPORT

Fall 2017



Liman at 20: Public Interest(s) Launching the Arthur Liman Center for Public Interest Law

Learn more about the Liman Center by visiting www.law.yale.edu/liman

“We mark an important milestone, as the Liman Program becomes the Arthur Liman Center for Public Interest Law at Yale. After twenty years, Arthur Liman’s vision is being furthered with a new Center on solid footing to expand its efforts to support faculty and students responding to inequalities in access to justice.”

—Robert Post, Dean of the Yale Law School 2009–2017
Sterling Professor of Law

“To be part of Liman, you don’t just have to do good in the world. You have to have enough peripheral vision to see where good can be done. Liman Fellows take what we teach here and they turn that education into something magnificent. Each project, each seminar, is a piece of the mosaic. They come together to form a striking picture of justice. Liman has done extraordinary work in finding the stories that demand change. . . . Lawyers, at their best, are the ones who can identify the abstract principles embedded in individual stories. Lawyers, at their best, are able not just to tell other people’s stories, but to empower people to tell their own stories.”

—Heather Gerken, Dean of the Yale Law School
Sol & Lillian Goldman Professor of Law

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Liman at 20: Launching and Celebrating the New Arthur Liman Center for Public Interest Law

In April of 2017, former Dean Robert Post announced the launch of the Arthur Liman Center for Public Interest Law.

Arthur Liman—a Yale Law graduate, a partner at Paul, Weiss, and the hero for whom this Center is named—perfectly captured the credo of the Liman Center when he wrote that, for lawyers, public service “is as natural as breathing.” . . . Arthur himself lived this faith to its fullest. He used his great talents as a lawyer for the public good time and time again. He served on public commissions. He represented New York City in major civil cases. He served a stint as a prosecutor. Thankfully, Arthur’s family has carried on his ethos of public service. The dedication of his family—Ellen, Lewis, Doug, and Emily—has, along with many other donors, made possible the growth of the Liman Program and the birth of the Liman Center. They have supported this Law School in its unending quest to make this a land of justice for all.

Dean Post was joined by more than 250 people who had gathered at Yale Law School to celebrate the creation of the Liman Center, to mark twenty years of the Liman Program founded in 1997, and to speak about the life and the legacy of Arthur Liman, in whose memory the program was created.

Arthur Liman graduated from Harvard College and, in 1957, from Yale Law School. He personified commitment to the public interest through his personal demonstration of how dedicated lawyers in private practice and in public life can serve the needs of people and causes that otherwise go unrepresented. In 1971, Arthur Liman was appointed General Counsel to the New York State Special Commission on Attica and authored the report that detailed the horrible conditions that sparked the uprising

at that upstate New York prison. In 1987, Liman led the Senate investigation of the Iran-Contra affair. Throughout his career, he helped create new nonprofits and joined in the leadership of established institutions dedicated to social justice.

Speakers at the April 6th event paid tribute to Arthur Liman and reflected on the growth of the Liman Program—now the Liman Center—at Yale. Guido Calabresi, who had known Liman when he was a student, reflected on how other students aspired to live up to Arthur’s achievements. Calabresi remembered faculty efforts to recruit Liman to teach at the Law School. Liman demurred and then famously made so many contributions as a practicing lawyer.

Anthony Kronman, who as Dean launched the Liman Program in 1997, spoke about how quickly money was raised for the Liman Professorship. Kronman explained that because more donations came in than were needed, the extra funds were designated for a Liman Fellow. Kronman reminded the audience that in 1997, there was a single Liman Fellow and now six to twelve Fellows are appointed every year—resulting in 122 Fellows thus far. Kronman reflected on how the program flourished through a mix of the nurturance of the Law School and the leadership of Judith Resnik, the Liman Professor.

Incoming Dean Heather Gerken spoke about both the past and the future. “The Liman Center, of course, is deeply intertwined with our history. And it is deeply intertwined with the values of this place. We should celebrate all that the Liman family does and will continue to do. And what could be more fitting than to celebrate with the many friends of this school and in this program.” Gerken applauded the generous support and contributions of the Liman family and friends that are making this next phase—the Liman Center—possible.



Robert Post, YLS Dean 2009–2017, Sterling Professor of Law



Heather Gerken, YLS Dean, Sol & Lillian Goldman Professor of Law



Harold Koh, YLS Dean 2004–2009, Sterling Professor of International Law



Anthony Kronman, YLS Dean 1994–2004, Sterling Professor of Law



Guido Calabresi, U.S. Court of Appeals for the Second Circuit; YLS Dean 1985–1994, Sterling Professor Emeritus

Ellen Liman, Arthur's widow and an artist, was joined by two of their grandchildren as she stressed the importance of intergenerational commitments to public service and presented Judith Resnik with one of her seascape paintings. The Limans' sons, Lewis and Doug, each discussed the significance of public service in their father's life. As Lewis put it, "There is no more meaningful way to honor my father's legacy, his aspirations for the profession, and what he stood for" than by creating the Center. Remarking on the growth of the community of Liman Fellows and the ever-expanding circle of Liman friends, partners, and collaborators, Doug said: "I come from a big family, but our size really comes from the fact that we call so many people cousins who we're not actually related to. Well, thanks to Judith and everyone's fantastic work, our family has gotten so much bigger. I consider you all cousins, and it's such an extraordinary family to be a member of."

The Law School and the University also celebrated by displaying materials drawn from Arthur Liman's archives at Yale's Sterling Library and from the family's collection. The Lillian Goldman Library showcased Liman's education at the Law School and two defining time periods in his career—the early 1970s when he worked on the Attica Report, and the mid-1980s, when he led the Senate investigation into the Iran-Contra affair. Alongside these mementos were a host of reports and programs documenting the history of the Liman Center, early and recent materials from past colloquia, and published works by Liman Fellows. The Yale Center for British Art exhibited items from the Liman family's collection of British antique board games, and the Law School Library featured their American games.

The displays also captured much of the history of the Liman Center, which has, over the course of its past twenty years, funded 114 Law Fellows working in diverse public interest fields. With the eight new fellowships, the ranks grow to 122 as of 2017–2018. About ninety percent of those Fellows continue to do public interest work, for nonprofits, in the academy, and in government. In addition to supporting law school graduates, who receive year-long fellowships to work on an array of issues, the Liman Center has also helped more than 400 summer

public interest fellows from Barnard, Brown, Harvard, Princeton, Spelman, Stanford, and Yale.

At Yale Law School, the Liman Center teaches a class each year to address different facets of the criminal and civil justice systems. The Center also sponsors programs and an annual colloquium to bring together scholars, students, and public interest practitioners in the public and private sectors.

The Liman Center has begun a series of new initiatives. The website is now home to dozens of publications by Liman Fellows. The website also offers a regularly updated section featuring media coverage of the work of Liman Fellows. Our fall calendar includes several programs. One addresses policing and communities of color, while another focuses on the neuroscientific evidence about how solitary confinement is bad for rats and the role that such studies can play in understanding the harms of solitary to humans. Another program examines federal and state immigration policies. *Lawyering Where It's Hard* makes plain the importance of working as a public interest lawyer in places away from the coasts and from the major metropolitan areas. In the spring semester, the Liman Center will host a weekly seminar, *Rationing Access to Justice in Democracies*, to analyze the obligations of constitutional democracies to subsidize both judiciaries and litigants. These questions will be the basis for the Annual Colloquium *Who Pays? Fees, Fines, Bail, and the Cost of Courts*, to be held on April 5 and 6, 2018.

The Liman Center has also developed a new affiliated faculty program. Joining us will be Yale University colleagues from Yale's School of Medicine, School of Architecture, and the College; their expertise spans psychiatry, community health, building design, anthropology, and American Studies. The Liman Affiliated Faculty include Louisa Lombard, who is now an Assistant Professor of Anthropology and who was an undergraduate Liman Summer Fellow when she was a student at Brown University. Lombard focuses on areas of Africa where the state provides little by way of safety or governance. Laura Barraclough is an Assistant Professor of American Studies and Ethnicity, Race, and Migration; she writes about urban life and culture. Trattie Davies is an Architect and Critic with the Yale School of



The Honorable Sonia Sotomayor, Associate Justice of the United States Supreme Court, and Ellen Liman



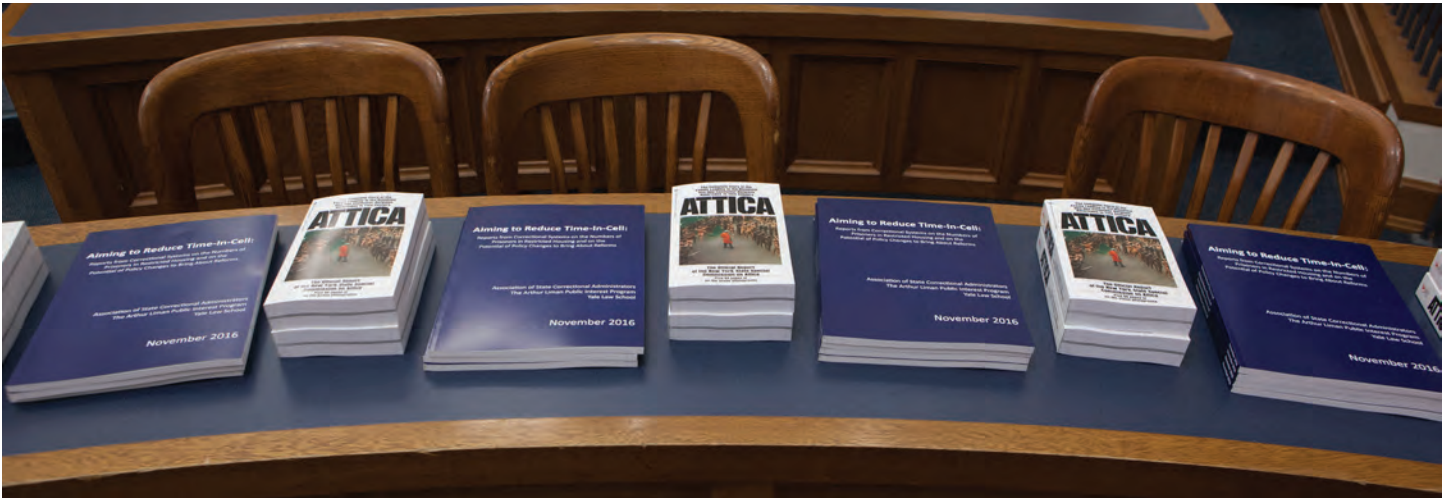
Ellen Liman, along with granddaughters Gillian (Gigi) and Abigail (Abby), and Judith Resnik



Former Dean Robert Post and Doug Liman

Architecture. A founding partner of the New York design firm Davies Toews Architecture, she has worked for Gehry Partners in Los Angeles and teaches courses on advanced design. Reena Kapoor and Howard Zonana are in the Department of Psychiatry of the Yale School of Medicine. Both have provided health services inside prisons and focus on the intersection of mental health and the criminal justice system. Both are also regular participants at Yale Law School, consulting on issues related to veterans, immigrants, and criminal defendants. Jaimie Meyer is an Assistant Professor of Medicine and an Assistant Clinical

Professor of Nursing; she works on women's and girls' health in the criminal justice system and HIV treatment. Lisa Puglisi and Emily Wang, also from the School of Medicine, are physicians dedicated to improving health care for people who were in prison. Puglisi is the co-director of the Transitions Clinic in New Haven, a program for people released from prison. Wang is a co-founder of the Transitions Clinic Network, a consortium of fifteen community health centers nationwide bringing medical services to recently released prisoners.



Copies of the 1972 report of the New York State Commission on Attica, along with the Liman Center's most recent report on solitary confinement, were distributed throughout the Colloquium.



Gillian Liman, Doug Liman, Justice Sotomayor, Abigail Liman, Lewis Liman, and Ellen Liman

The 2017 Liman Colloquium: Public Interest(s)

The twentieth anniversary Colloquium on April 6 and 7, 2017 began with talks from four Liman Fellows whose careers span the decades of the program. Thereafter, Judith Resnik, who has held the Arthur Liman Professorship since its inception and was the Founding Director of the Program, welcomed the Honorable Sonia Sotomayor, Associate Justice of the U.S. Supreme Court and graduate of the Yale Law School class of 1979, to discuss the many meanings of lawyering in the public interest.

The first of the Fellows to speak was Alison Hirschel, who graduated from Yale Law School in 1984 and who was in 1997 the first and, at the time, the only Liman Fellow. As she explained in her remarks, the Fellowship made it possible for her to create strong ties with a community of advocates, and she has since expanded the work she loves—working on the rights of older adults. Hirschel's program has grown to include twenty-one people, and she guides their efforts with the passion and dedication that earned her the Liman Fellowship.

Jessica Sager, a Liman Fellow in 1999, created her project to help individuals at risk of losing federal welfare benefits under federal statutes that, in 1996, required welfare recipients to be employed or in job training. Sager invented a new nonprofit, All Our Kin, to enable women to keep their benefits while learning how to become professional caregivers and to start their own

businesses providing high-quality daycare in their own homes. Today, that program operates statewide and is a model for the nation; All Our Kin has launched the careers of hundreds of child-care providers.

Jamelia Morgan graduated from Yale Law School in 2015 and held a Liman Fellowship from 2015 to 2017 at the National Prison Project of the ACLU. Morgan did pathbreaking research on individuals in prison who have disabilities and are placed in solitary confinement. In the summer of 2016, Morgan spoke at the White House Forum on Criminal Justice Reform and Disability about the ACLU-published report, *Caged In: Solitary Confinement's Devastating Harm on Prisoners with Physical Disabilities*. Morgan discussed the trajectory that brought her to this work and her future as a "lifelong social justice advocate."

The Fellows' panel ended with Forrest Dunbar, who graduated from Yale Law School in 2012 and held a Liman Fellowship the following year. Dunbar worked on reducing the penalties for drug offenses—a problem he has continued to tackle since his election in 2016 as an Assembly Member in Anchorage, Alaska. Dunbar reflected on how important state-based policy-making is and, hence, of the need for others to join the work as politicians serving the public interest.



Judith Resnik; Alison Hirschel, Managing Attorney, Michigan Elder Justice Initiative (Liman Fellow 1997–1998); Jessica Sager, CEO, All Our Kin (Liman Fellow 1999–2000); Jamelia Morgan, ACLU National Prison Project (Liman Fellow 2015–2017); and Forrest Dunbar, Assembly Member, Anchorage, AK (Liman Fellow 2012–2013)

Alison Hirschel

Managing Attorney, Michigan Elder Justice Initiative

Lecturer in Public Interest/Public Service,

Faculty Fellow, University of Michigan Law School

Liman Fellow 1997



As the first Liman Fellow, I have been the longest-standing recipient of the generosity, encouragement, and inspiration from the Liman family, the Liman Program, the Law School, and especially, Judith Resnik. When I was awarded the first Liman Fellowship, I had already been a lawyer for a dozen years at Community Legal Services in Philadelphia. I worked to

enhance the health, safety, dignity and autonomy of very vulnerable, low-income older adults. It was my dream job. In 1997, however, my family moved to Michigan, and I was searching for a way to continue this work in my new state.

The Fellowship allowed me to establish myself and, eventually, to expand this work far beyond what I alone could accomplish. Although I began as the only full-time elder law attorney in my program, my office will soon include twenty-one other lawyers and advocates whom I supervise statewide, all working on behalf of older adults and people with disabilities.

The clients we represent have often been poorly served by the systems designed to meet their needs. They are nearly invisible to the public and are underserved by legal services programs because they pose practical and ethical challenges. In advocating for this population, we use whatever tools seem most effective—litigation, administrative and legislative advocacy, education, and coordination with state and national partners.

Because I was housed in a disability rights organization during my Fellowship year, I was able to forge a powerful alliance with the disability community. That collaboration fundamentally changed the way I advocated for older adults. I became passionate about the need to expand non-institutional long-term care options. I realized that my clients didn't have to live in nursing homes that separated them from the people and activities they cherished, limited them to two showers a week, housed them in small rooms with strangers for roommates, and, despite strong law and good intentions, stripped them of privacy, dignity, and autonomy. One important case led to the reopening of the state Medicaid program that allowed people who needed nursing-home level of care to receive those services in their own homes—often at significantly lower cost than residential care would be for the state.

I represented an amazing and resilient set of plaintiffs.

They included a 28-year-old who was paralyzed from the neck down and facing decades in a Detroit nursing home, a middle-aged father with multiple sclerosis who was anguished at the thought of being separated from his children, a couple married sixty years who just wanted to be able to live out their lives together, and a 100-year-old man who had been neglected in a nursing home and craved the comforts of his very modest home.

That litigation has helped thousands of individuals like our plaintiffs. It also spawned a blueprint for long-term care in the state and sparked productive monthly meetings with the state Medicaid director that have continued for the past thirteen years.

We have had successes in many other areas as well. But the intractable and haunting issue of guardianship is our next advocacy challenge. Although many families seek guardianship out of a sincere concern for a truly incapacitated relative, guardianship can also be one of the darkest corners of the law. Petitions are virtually always granted, and professional guardianship companies, unscrupulous individuals, and many institutions benefit at the expense of the individual. Like many state guardianship laws, Michigan's statute seems replete with due process protections. Yet court proceedings may last only a few minutes, the allegedly incapacitated person is often not even present or represented by counsel, and, usually, no expert testimony is required.

As a Utah judicial committee noted: "The appointment of a guardian . . . removes from a person a large part of what it means to be an adult: the ability to make decisions for oneself. . . . We terminate this fundamental and basic right with all the procedural rigor of processing a traffic ticket." Once a guardian is appointed, there is often a pipeline to the nursing home, the sale of the person's home and possessions, and the risk of further exploitation—which overburdened courts are often unable to detect or address. Few guardianships are ever terminated. Professor Nina Kohn characterizes people under guardianships as "legal ghosts." In nursing homes, they are simply described as "not their own person anymore," a poignant reminder of how much they have lost.

There are solutions to this grave injustice. Courts need more funding to identify and divert inappropriate guardianship cases, pay court-appointed lawyers and investigators more, and provide real oversight once a guardian is appointed. Advocates for vulnerable clients have to demand more, appeal more, and utilize mediation and other innovative alternatives to guardianship. The sometimes-insular world of guardianship—where each probate court operates as its own fiefdom—has to be opened up to public scrutiny and held to account.

When we gather again five years from now—for the twenty-fifth anniversary of Liman—I hope to be able to report that we have made great strides in this area too. And as I close, I would be remiss if I didn't also say I fervently hope that the Legal Services Corporation retains its crucial funding and that programs like mine continue to be able to protect the legal, civil, and human rights of *all* low-income and vulnerable clients.

Jessica Sager

Chief Executive Officer

All Our Kin, New Haven, Connecticut

Liman Fellow 1999



I graduated from Yale Law School in 1999 and received the Liman Public Interest Fellowship that same year to start All Our Kin, the organization that I now run. I'm going to tell you a little bit about what All Our Kin does now, how it came to be, and the role that the Liman Fellowship played in making my work possible.

The child-care system in this country is broken. In response to this broken system, women across the United States step up, offering care to the children of friends, neighbors, and relatives. These home-based child-care providers are the primary source of child care for infants and toddlers in low-income neighborhoods. They come to the work out of a love for children and families and a dedication to the well-being of their communities. Policymakers have long overlooked and devalued these child-care providers, in large part because they are low-income women of color engaged in the traditionally female profession of caregiving. At All Our Kin, we take the opposite approach, recognizing that women caring for children in their homes—family child-care providers—are incredible assets to their communities. If we invest in these caregivers, giving them training, resources, and support, they can create wonderful, high-quality early childhood programs that make it possible for children and parents to succeed, while also building businesses that enable them and their own families to move out of poverty.

In its initial form, All Our Kin was a response to welfare reform. I came to law school in 1996, just after President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act, requiring parents on cash assistance to join job training programs or lose their benefits. This requirement applied even if those parents were home taking care of very young children. At the same time, more and more professional women were demanding the right to greater flexibility and more time with their children, to be workers and mothers too. And yet, we were making poor women choose between their children's healthy development and their family's economic survival. It was wrong.

Then I had an idea. The Act required poor mothers to attend job training programs; nothing in the law said that those job training programs couldn't also *be* child care. What if you set up a laboratory school where parents could learn to be teachers while they worked with their own, and each other's, children?

Then, parents could be with their babies and toddlers, while they trained for careers in early care and education. That in turn would enable other mothers to succeed as well.

Once I had this idea, I could not let it go. The idea had power. Other students, and faculty members including Jay Pottenger and Anne Alstott, lent their support—helping to flesh out the vision for All Our Kin.

I began applying for legal fellowships to make All Our Kin a reality. Over and over, I was told: "This is a great idea, but it's not a legal project." Then I applied for the Liman Fellowship. Judith Resnik, and the fellowship committee, invited me to make the case that my project was indeed legal. I argued that economic development work was the future of public interest law and that helping support the creation of these small businesses was indeed a legal function. The committee bought my argument and awarded me the fellowship. With the support of the Liman fellowship, All Our Kin opened its doors in fall of 1999.

Over time, our program evolved. Many of our graduates opened family child-care centers and exponentially expanded the supply of quality child care in their neighborhoods. We created a training network for our graduates, and soon, other child-care providers began coming to us for training and support. Eventually, we closed the lab school, taking the best of what we'd done there and bringing it across the city and then the region, creating the organization that we now think of as All Our Kin. Some of our key outcomes:

- We expand the supply of child care. Over a ten-year period, Connecticut lost over thirty percent of its family child-care programs; in New Haven, that number increased by seventy-four percent, thanks to All Our Kin.
- We raise the quality of care. All Our Kin providers score, on average, over fifty percent higher on research-based observational tools correlated with better outcomes for children.
- We increase caregiver earnings. Sixty percent of providers earn at least \$5,000 more after the first year.
- And the combination of increased provider earnings and parents' ability to enter and remain in the workforce generates \$15–\$20 in regional economic benefits for every dollar that we invest.

Today, All Our Kin reaches 400 family child-care providers and over 2,000 children. We are in four cities in Connecticut, and we are preparing to expand to New York City. Without the Liman Fellowship, and the committee's willingness to take a chance on our work, there is no way that All Our Kin would exist today.

And for those of you who may still be wondering whether All Our Kin is really a legal project, one final word: All Our Kin lifts up the voices of family child-care providers and parents, giving low-income women, and men, of color power to speak about and impact critical decisions that affect their lives. And that is most certainly a key role for advocates and attorneys.

Jamelia Morgan

ACLU National Prison Project, Washington, D.C.

Liman Fellow 2015–2017



Growing up as the daughter of hardworking Jamaican immigrants in a predominantly working-class community of color in Los Angeles County, I witnessed firsthand the structural barriers and challenges these low-income communities of color endure on a daily basis. This experience motivated me to pursue a legal career dedicated to eradicating the institutionalized forms of injustice that persist in and against these communities.

In my role as an Arthur Liman Fellow with the ACLU National Prison Project, I led research and advocacy efforts that address the challenges faced by incarcerated people with disabilities. These research and advocacy efforts culminated in a report released in January 2017 called *Caged In: Solitary Confinement's Devastating Harm on Prisoners with Physical Disabilities*. For the past two years, I have advocated on behalf of prisoners in lawsuits challenging denials of access to medical and mental health care, as well as conditions in solitary confinement. Beyond this, I have also participated in public education and administrative advocacy efforts to end the use of solitary confinement as part of the ACLU's *Stop Solitary* campaign. As part of this effort, I have submitted comments in response to a request for proposals for improving restrictive housing policies published by the American Correctional Association, discussed the issues facing incarcerated people with disabilities with officials at the Department of Justice and the Federal Bureau of Prisons, and participated in media outreach, including a panel presentation at the White House Forum on Criminal Justice Reform and Disability in 2016 and local radio discussions.

Prior to this, in law school, I actively sought out opportunities to work on criminal justice reform. As a participant in the Detention and Human Rights Project, I engaged in legal advocacy to improve the conditions of confinement in maximum-security prisons in Connecticut. While a law student, I served on a team that created a comprehensive Liman research report on the policies governing the use of solitary confinement in fifty-one jurisdictions across the United States. And during my summers in law school, I worked to improve the conditions of confinement for prisoners on Rikers Island in New York and for women in Central Mississippi Correctional Facility in Pearl, Mississippi. Through this work, I gained valuable insight into the day-to-day operations of isolation units and viable avenues for reform.

I plan to be a lifelong social justice advocate who works to change a criminal justice system marred by injustice, as reflected

in the racially disparate outcomes produced by America's War on Drugs, police misconduct, profiling and surveillance of racial and religious minorities by the government, and other systemic inequalities. I am exceedingly grateful to Yale Law School and the Liman Center for providing me with the mentorship and financial support to pursue a career in public interest law. As a Black woman, I am inspired by the actions of those courageous men and women, scattered throughout history, who paved the way for me to live in a more free and fair society because they possessed the audacity and resolve to push for justice despite the odds. In my legal career and life's work, I will continue their legacy by ensuring that our nation fully realizes the principles and promise of equality and justice for all people.

Forrest Dunbar

Member of Anchorage Assembly, Alaska

Liman Fellow 2012



There are three ways in which I work in public policy, and all have been facilitated by the Liman Fellowship. Those three are: staff work, electoral politics, and direct democracy.

After I graduated from Yale Law School in 2012, the Liman Fellowship provided an immediate entry back into policy in Alaska. In 2013, I worked on a bill based on my Liman proposal—called

SB 56—to reduce certain low-level drug possession crimes from felonies to misdemeanors. The bill I worked on passed the State Senate in 2013, while I was on my Liman, only to die in the State House. However, in 2016 that reform was included in an omnibus bill that passed the Legislature and was signed by the Governor. The Liman Fellowship is a but-for cause of the reclassification of certain nonviolent, non-distributory drug crimes in Alaska.

That experience working on SB 56 helped me build credibility with the relatively small community of policymakers and politically active people in Alaska. So in 2014, I ran for the United States Congress. I won the primary, but was soundly defeated in the general election. However, I ran a positive campaign and won in the city of Anchorage so, when a spot opened up on the Municipal Assembly, I was able to run and win. From my position on the Assembly I am able to not only do direct policy work, but also recruit a number of other people to run and get involved. Again, the Liman Fellowship helped bring me to this position where I can assist good people to run for office in Alaska.

Third, on direct democracy: In 2015, along with a small group of collaborators, I helped create and run a statewide ballot initiative that linked the Alaska Permanent Fund Dividend (PFD), the famous thousand-dollar checks every Alaskan receives for

living in the state, to voter registration. We built a broad coalition, and in November of 2016, PFD Automatic Voter Registration won with more than sixty-three percent of the vote. Once this system is fully implemented, Alaska will have the most universal, most accurate voter registration system in the history of the country.

All of these things grew in part out of the Liman Fellowship, and thus the generosity of the Liman family. So again, thank you.

Working for the Public Interest(s): A Conversation with the Honorable Sonia Sotomayor and Liman Professor Judith Resnik



Judith Resnik and Justice Sotomayor

Justice Sotomayor discussed the many ways in which she worked in the public interest before and after becoming a judge. Unlike many of her classmates, Justice Sotomayor went directly after graduating from Yale Law School in 1979 to the Manhattan District Attorney's Office, headed by Robert Morgenthau. Justice Sotomayor spent five years there as a prosecutor, and (as she recounts in her autobiography, *My Beloved World*) tried cases, seeing firsthand the challenges of the criminal justice system.

Justice Sotomayor then joined a law firm, where she became an expert in commercial litigation and intellectual property. She also served on the boards of the Puerto Rican Legal Defense and Education Fund and the State of New York Mortgage Agency, as well as the New York City Campaign Finance Board. In 2001, Justice Sotomayor was appointed by President George H.W. Bush to the U.S. District Court for the Southern District of New York, and by President Bill Clinton in 1997 to the Court of Appeals for the Second Circuit. While in New York, Justice Sotomayor taught at NYU and Columbia Law Schools. President Barack Obama appointed Justice Sotomayor to the United States Supreme Court in 2009.

Given her wealth of experiences, the two-hour discussion on the many meanings of working for the public interest(s) was wide-ranging. Justice Sotomayor spoke of her time in law school and of her closeness to classmates who shared a sense of the disjuncture between their backgrounds and those of their classmates. She noted her regret at not having done clinical work while in law school, and therefore "missing the experience of translating theory into practice" that would have made her "a better lawyer earlier" in her career.

Justice Sotomayor also described the joys of being on the Supreme Court. "What I love about the Supreme Court is that the rulings are shared; it allows me to understand conclusions I would not come to alone." She commented on her unique vantage point, as the only current Justice who has served as a state prosecutor, and about how much that experience has taught her. Justice Sotomayor praised prosecutors and the police, whose caseloads are overwhelming. "They are trying to keep us safe and doing their job with a high level of integrity, honesty, and caring," she said.

Justice Sotomayor also sees the many problems in the current criminal justice system, which she described as "broken." Her decisions in the area of criminal justice reflect those concerns. "When I choose to write," she said, "it typically is when there's a structural failing in due process, and I think using one example and writing about it is useful and illuminating."

Professor Resnik commented that Justice Sotomayor's description of the problems in the criminal justice system echoed the concerns that she raised in her dissenting opinion in *Utah v. Strieff*. At issue in *Strieff* was how courts ought to treat evidence gained from an unconstitutional stop, during which police discovered that the individual had an outstanding arrest warrant. Justice Sotomayor pointed out that in an era in which "outstanding warrants are surprisingly common," the Court should not condone such unlawful stops, which treat the person detained not as "a citizen of a democracy but the subject of a carceral state, just waiting to be cataloged."

The conversation between Justice Sotomayor and Resnik also focused on the numbers of unrepresented people filing cases. In the federal courts, for example, individuals without lawyers file twenty-five percent of the civil lawsuits and more than fifty percent of appeals. Justice Sotomayor called on lawyers to do more public service, and she spoke about the importance of law schools providing representation and of law school clinics helping students to shape careers centered on public service.

The lack of access to lawyers, Justice Sotomayor noted, is an issue at the "frontier" of public interest lawyering—making it all the more important that law students be well-educated on the legal and economic structures that frame the lives of their clients. "If law schools have one charge," Justice Sotomayor said to the audience, "it is to teach curiosity and the law's role in the world."

A Surprise Gift from the Liman Fellows and Friends: The New Resnik-Curtis Public Interest Fellowship



Denny Curtis, YLS Clinical Professor Emeritus of Law; Judith Resnik

The opening session of the Liman Colloquium ended with a surprise announcement by Robert Post of the creation of a new Resnik-Curtis Public Interest Fellowship, to be awarded to a 2018–2019 recipient for work in criminal justice. As Dean Post explained, former Fellows and Directors had hatched the idea. Sarah Russell (who graduated in 2002 and was the Liman Director from 2007 to 2010, and who is now a Professor of Law at Quinnipiac School of Law) joined with several former Liman Fellows to assemble a critical mass to launch the fundraising. As Dean Post put it, the creation of the fellowship “is but a small token of how deeply and profoundly you are loved. . . . You have few rivals in the academy who can claim to have inspired and unleashed as many public interest lawyers on the world—few who have had as profound an effect on justice and equality, especially with regard to criminal justice and prisons.”

A word about both Resnik and Curtis is in order. In addition to her work at the Liman Center, Resnik teaches about federalism, procedure, courts, prisons, equality, and citizenship. Since 2012, she has chaired the Law School’s annual Global Constitutionalism Seminar and has been the editor of six volumes (available as e-books); the 2017 volume is entitled *Reconstituting Constitutional Rights*. Other books include *Federal Courts Stories* (co-edited with Vicki C. Jackson, Foundation Press, 2010); and *Migrations and Mobilities: Citizenship, Borders, and Gender* (co-edited with Seyla Benhabib, NYU Press, 2009). In 2014, Resnik was the co-editor (with Linda Greenhouse) of the Daedalus volume *The Invention of Courts*.

Resnik is also a Managerial Trustee of the International Association of Women Judges. She is an occasional litigator and has argued cases in the U.S. Supreme Court, including the lawsuit about women’s admission to the Rotary Club. From 2014 to 2016, Professor Resnik was a Phi Beta Kappa Visiting Scholar; in 2015, she was a visiting professor at Université Panthéon-Assas Paris II, and she also holds a term appointment as an Honorary Professor, Faculty of Laws, University College London.

In 1998, Resnik was the recipient of the Margaret Brent Women Lawyers of Achievement Award from the Commission on Women of the American Bar Association. In 2001, she was elected a fellow of the American Academy of Arts and Sciences, and in 2002, as a member of the American Philosophical Society. In 2008, Professor Resnik received the Outstanding Scholar of the Year Award from the Fellows of the American Bar Foundation. In 2010, she was named a recipient of the Elizabeth Hurlock Beckman Prize, awarded to outstanding faculty in higher education in the fields of psychology or law. That year, Resnik also had a cameo role in the Doug Liman film, *Fair Game*. In 2013, Professor Resnik was given the Arabella Babb Mansfield Award, the highest honor presented by the National Association of Women Lawyers.

Denny Curtis graduated from the U.S. Naval Academy and served on submarines before attending Yale Law School in the 1960s. He went on to become one of the pioneers of clinical legal education in establishing, along with Daniel Freed and Stephen Wizner, the first clinics at Yale Law School. Curtis devoted his career to clinical teaching and invented several new projects at Yale and at the University of Southern California, where he taught in the 1980s and 1990s. He served as the first president of the Los Angeles Ethics Commission, the director of the Legal Aid Foundation of Los Angeles, the chair of the American Association of Law Schools’ Committee on Clinical Legal Education, and as a member of the New Haven Democracy Fund Board.

When Curtis returned to Yale in 1997, he created a new clinic in which students worked with the agency responsible for disciplining lawyers in Connecticut, the Statewide Grievance Committee. This innovative Lawyering Ethics Clinic was a 2002 recipient of the American Bar Association’s E. Smythe Gambrell Professionalism Award, given to programs that increase the understanding of professionalism in the practice of law. As one of Curtis’s classmates put it, the new fellowship honors “his lengthy and inspiring service in teaching many YLS students something real about the law they have been chafing to start practicing.”

Curtis and Resnik have collaborated through the years in teaching, litigating, and scholarly work. Their joint work includes the book, *Representing Justice: Invention, Controversy, and Rights in City-States and Democratic Courtrooms*, published by Yale Press in 2011. The volume, with more than 200 images, traces how changes in the designs of courthouses and in the icons of Justice (such as deployment of the Renaissance Virtue Justice) reflect new norms about how judges, in constitutional democracies, should treat litigants and about the role that courts should play in ensuring equal treatment of all persons. In 2011, *Representing Justice* was selected by *The Guardian* as one of the year’s “best legal reads;” in 2012, by the American Publishers Association as the recipient of two PROSE awards for excellence in social sciences and in law/legal studies; and by the American Society of Legal Writers for the 2012 SCRIBES award. In 2014, *Representing Justice* won the Order of the Coif award, presented every two years in recognition of a book’s outstanding contributions to legal scholarship.

Pursuing the Public Interest(s)

At the April Colloquium, a variety of panels addressed the shape and impact of public interest careers. Below, we provide snapshots of each panel.

Resilience and Sustainability



Doug Stevick, General Counsel for Labor and Employment, Texas RioGrande Legal Aid (Liman Fellow 1998–1999); Jorge Barón, Executive Director, Northwest Immigrant Rights Project (Liman Fellow 2005–2006); Ryan Sakoda, Staff Attorney, Committee for Public Counsel Services, Boston (Liman Fellow 2015–2017); Marjorie Allard, Judge, Alaska Court of Appeals (Liman Fellow 2000–2001); Raquiba Huq, Supervising Attorney, Legal Services of New Jersey (Liman Fellow 2007–2008); and Hope Metcalf, Executive Director, Schell Center for International Human Rights Law, YLS (Liman Program Director 2010–2014)

The first panel, *Resilience and Sustainability*, asked former Fellows to talk about how to keep going, even when the times or the law feel especially taxing. Doug Stevick is now the General Counsel for Labor and Employment at Texas RioGrande Legal Aid; he is devoted to working on behalf of low-wage workers, which he began to do as a law student and to which he returned as a Liman Fellow in 1998. Stevick spoke about the need for lawyers to keep their personal and professional priorities in mind so as to ensure they act on them. In rural Texas where he practices, Stevick acknowledged what he had foregone. “On my less secure days,” he said, “I ask myself, Wow, what if I had made other choices? But I didn’t make other choices in life, and I’m glad I did not make other choices in life, despite the down days.” Stevick said that he has been practicing as a public interest lawyer for twenty years, and he is certain that this is exactly what he will be doing in another twenty years.

Jorge Barón began his Liman Fellowship in 2005, working at the New Haven Legal Assistance Association on the consequences of criminal convictions for immigrants. Barón is now the Executive Director of the Northwest Immigrant Rights Project in Seattle. He talked about his transition from lawyer to administrator, the burden of difficult resource allocation choices, and how making the work sustainable for staff members is key to maximizing the long-term strength and effectiveness of his office. Barón also talked of the collaborative efforts he has been making, such as joining colleagues as a front-line lawyer at

the Seattle Airport along with hundreds of other lawyers and protesters to challenge the travel ban imposed in the winter of 2017.

Like Barón, Raquiba Huq is focused on immigration work. She held a Liman Fellowship in 2007 at Legal Services of New Jersey, where she is now a supervising attorney; throughout, she has provided direct services to immigrants. Huq said that one of the hardest challenges was delivering bad news to clients. “How to say, No I can’t take your case; how to say, No I can’t go that extra mile; how to say, Sorry, I lost your case. . . . How do we deal with that internally as a unit? We rely on each other. That helps, just to know there are people in the struggle with you who will scream and yell and shake their fists with you.” Sustenance comes from her deep connection with her clients, the shared sense of outrage among her colleagues, and the amazing resilience and kindness of the communities she represents.

Marjorie Allard was a Liman Fellow in 2000 at the Alaska Public Defender Agency, where she focused on alternative sentencing programs for criminal defendants, with a focus on mental health. She continued that work before becoming a judge on the Alaska Court of Appeals in 2012. Allard explained that another Court of Appeals judge had inspired Allard to keep practicing as an appellate public defender because of his just decisions. When that judge retired, she applied for the seat. Allard, who has a child with significant medical needs, spoke about the importance of colleagues who understood the challenges that she faced and who were nimble in responding to sometimes-urgent needs when she has had to change her scheduled plans. Allard thus reminded us of the rewards of meeting the needs of those around us.

Sustainability is not only a challenge for longtime public interest lawyers. Ryan Sakoda spoke from the viewpoint as a new lawyer looking to the future and aiming to sustain himself over the decades ahead of him. Sakoda is currently a staff attorney with the Committee for Public Counsel Services, Massachusetts’s public defender agency, where he was a Liman Fellow from 2015 to 2017. Sakoda focuses on the impact of criminal prosecution on his clients’ access to subsidized housing. Sakoda noted the high turnover in public defender offices, and he emphasized the need to look to coworkers to sustain each other on a day-to-day basis. Given the infrequent victories in public defender work, Sakoda discussed how his office celebrates the victories that do come and draws on the camaraderie of a shared sense of purpose, even when he loses individual cases.

The Academy and the Public Interest



Anna VanCleave, Director, Arthur Liman Center for Public Interest Law; Larry Schwartztol, former Executive Director, Criminal Justice Policy Program, Harvard Law School, and currently Counsel for United to Protect Democracy (Liman Fellow 2006–2007); Marisol Orihuela, Clinical Associate Professor of Law, YLS (Liman Fellow 2008–2009); Susan Hazeldean, Assistant Professor of Law, Brooklyn Law School (Liman Fellow 2001–2002); Fiona Doherty, Clinical Associate Professor of Law, YLS (Senior Liman Fellow in Residence 2011–2012); and Monica Bell, Associate Professor of Law, YLS (Liman Fellow 2010–2011)

A second panel, *The Academy and the Public Interest*, was convened because many Liman Fellows and former Liman Directors teach law, both clinically and non-clinically, and have become innovative academics. This discussion explored the role of law schools in supporting and expanding public service—with the Liman Center as a prime example. The challenges for faculty are straddling roles within and outside of the academy. Panelists talked about what pulls them away from or towards the format traditional in law schools. Further, in response to Justice Sotomayor’s question about a role for the academy as a bridge to the profession, in part by drawing in lawyers and judges as adjuncts, panelists reflected on how to situate law schools as responsive to the changing contours of the legal profession.

Fiona Doherty is now an Associate Clinical Professor at YLS; she was a Senior Liman Fellow in Residence in 2011. Doherty spoke about how her work as a student in clinics shaped her career. She now teaches the Advanced Sentencing and the Criminal

Justice Clinics. By moving to the academic community after several years as a federal public defender, Doherty has been able to use that work in her writing and in her practice. A fierce and careful advocate for clients, Doherty’s scholarly agenda—the impossible conditions imposed on parolees and probationers—has been shaped by her firsthand understanding of the impact of those conditions on her clients. She is now helping students to understand the importance of a client-centered practice.

Larry Schwartztol, then working as the Executive Director of the Criminal Justice Policy Program (CJPP) at Harvard, spoke about how to strategize around criminal justice reform from within a law school. Before going to Harvard, Schwartztol was a 2006 Liman Fellow at the Brennan Center and then spent seven years at the ACLU. He spoke about looking for opportunities to move the needle on high-stakes issues where there is no obvious path for success. One example from his experience with CJPP involved the program’s work with a police department on difficult reforms. By being within the academy, he was able to help the department see how much reform was needed.

Susan Hazeldean had a Liman Fellowship in 2001 at the Urban Justice Center in New York, working on behalf of LGBTQ homeless and at-risk youth. For Hazeldean, it was her love of legal services in the clinics at YLS that moved her to work in this field. When she became an attorney, it was her experiences working with incredibly passionate law students that prompted her to pursue clinical teaching. Hazeldean started an LGBTQ clinic at Cornell before heading to Brooklyn Law School, where she also does clinical work, focused on homelessness and human rights. For Hazeldean, there is no dichotomy between practice and the academy. The academic setting has enabled her to be a better lawyer than ever, not only because of the resources and opportunities but also because students provide a special push to excellence.

Marisol Orihuela is a Clinical Associate Professor at Yale Law School. She was a Liman Fellow in 2008 at the ACLU of Southern California, where she stayed on and continued challenging prolonged immigration detention and conditions of confinement—her “dream” job. Thereafter, she joined the



Justice Sotomayor joined Liman Fellows, faculty, and friends of the Liman Center as an audience member at a panel discussion, *The Academy and the Public Interest*.

Federal Public Defender's office in Los Angeles, to be a trial lawyer on behalf of the "most hated, most marginalized" individuals—those accused of crimes. Orihuela had not focused on becoming an academic; her goal was to practice law, but she was drawn to the academy so as to be able to step back from the urgent, crisis-driven work of public interest practice to pursue scholarship. Given the current immigration policies, she feels a tension between pursuing scholarship and the ongoing need to do the urgent case-related work that she now does with students.

Also joining the Yale Faculty this year is Monica Bell, an Associate Professor of Law at YLS. Bell was a 2010 Liman Fellow at the Legal Aid Society of D.C. Bell then joined a PhD program at Harvard in Sociology and Social Policy and became a Climenko Fellow at Harvard Law School. Bell challenged the notion that the academy and public interest practice should be conceptualized as separate. "The way I see my work is giving voice within the context of the academy," she said. "There are many ways in which voice-giving needs to happen, and I don't see these types of work as being untethered from each other." Instead, Bell said, the important role for public interest now is to create a multiplicity of pathways for people dedicated to social justice, particularly in an era with heightened needs for public interest work. For Bell, the academy offers a way to think of the most pressing contemporary issues in terms of the long game—teaching students who will be the future public interest lawyers, and investing in "thought-work," aiming for scholarship that can achieve reform over the course of time.

Entrepreneurial Public Interest



Kristen Jackson, Senior Staff Attorney, Public Counsel, Los Angeles (Liman Fellow 2003–2004); McGregor Smyth, Executive Director, New York Lawyers for the Public Interest (Liman Fellow 2003–2004); Adrien Weibgen, Staff Attorney, Urban Justice Center (Liman Fellow 2014–2016); and Sarah Russell, Professor of Law, Quinnipiac University School of Law, and former Liman Program Director 2007–2010

Public interest work requires inventiveness, whether in legal strategies, organizing activities, or policy work. Sometimes renovation of existing institutions is the goal, and at other times, reinvention is required. The Liman Center is one example

of an entrepreneurial project, and it has seeded many others, as proposing a fellowship entails thinking through how to become involved with a set of critical needs.

Entrepreneurial Public Interest focused on the difficulties of funding public interest work and the need to create new, and to sustain old, organizations. This panel discussion centered on whether the participants were comfortable in thinking of themselves as "entrepreneurial" and what entrepreneurial public interest means. The challenges of shaping new entities were compared with the need to alter the priorities of longer-standing organizations. Whether an organization is young or old, outside support and resources are always pressing problems.

Kristen Jackson is a Senior Staff Attorney at Public Counsel in Los Angeles, where she was a Liman Fellow in 2003. McGregor Smyth is the Executive Director of New York Lawyers for the Public Interest and held a Liman Fellowship in 2003–2004. Both work at established institutions. On opposite coasts, they have found ways to be entrepreneurial within long-standing organizations.

Before his Liman Fellowship, McGregor Smyth had a Skadden Fellowship to create the Civil Action Project at The Bronx Defenders—the first fully integrated and holistic civil legal services division within a public defender's office. He used his Liman Fellowship to create a Community Resource Center to train public defenders on the civil legal needs—the "invisible legal punishments"—their clients faced as a result of their criminal cases. For Smyth, the driving force in all of his innovations has been the idea of holistic legal representation, which focuses on the whole client and the vast array of their needs.

Jackson is focused on children and immigration—including those abandoned and neglected and therefore eligible to remain in the United States even if they entered without documentation. Jackson explained that she had not necessarily seen herself as entrepreneurial because she has stayed at her current organization for a number of years. But she has built and sustained a children's immigration project within Public Counsel, and she started an asylum project at UCLA Law School. Thus, for Jackson, entrepreneurialism meant that she had helped her office push the boundaries beyond what it had done before.

Adrien Weibgen did her Liman Fellowship at the Urban Justice Center from 2015 to 2017, where she represented community groups dealing with development and neighborhood change. Weibgen spoke about how the place where one lives determines so many opportunities that follow. She created a new project to work with and represent communities of color in negotiating with developers. The Urban Justice Center gave her a landing place for her project, and its connections to community groups made it possible for her project to take off. In short, she has been "entrepreneurial" from the get-go.

Sarah Russell has been entrepreneurial in the academy—first when serving as the Liman Director and helping it to expand and then by creating new clinical programs at Quinnipiac University School of Law, where she is now a professor.

In and Out of Government



Harold Koh, Former Dean, Sterling Professor of International Law, YLS; Holly Thomas, Deputy Director of Executive Programs, California Department of Fair Employment and Housing (Liman Fellow 2005–2006); Josh Civin, General Counsel, Montgomery County Public Schools, Maryland (Liman Fellow 2004–2005); Serena Hoy, Former Senior Counsel to the Secretary, Department of Homeland Security (Liman Fellow 2001–2002); Tom Jawetz, Vice President of Immigration Policy, Center for American Progress, Washington, D.C. (Liman Fellow 2004–2005); Marc Silverman, Assistant United States Attorney for the District of Connecticut (Liman Fellow 2006–2007)

At times, government lawyers are innovative public interest advocates, and at other times they are called on to defend institutions and laws that are the targets of reform. By bringing together Fellows who have worked within and outside of various governmental bodies, the panel focused on the contributions to be made from within. Panelists reflected on what prompted them to join the government, and in what roles they thought they were the most generative, as well as the obstacles to making the policies or taking the positions which they supported.

Two panelists, Tom Jawetz and Serena Hoy, have worked on immigration issues, both in and outside government. Jawetz began his career as a Liman Fellow with the Lawyers' Committee for Civil Rights, where he recruited private lawyers to work as pro bono counsel for immigrants. He then went to work at the ACLU National Prison Project; his focus was immigration detention. Before moving into his current role as the Vice President of Immigration Policy at the Center for American Progress, Jawetz was the Democratic Chief Counsel for the House Judiciary Committee, Immigration Subcommittee. At some points when in government, immigration was not a priority, but Jawetz pushed to raise the profile of immigration policy—which has become so central to today's politics.

Like Jawetz, Hoy started her career in nonprofit immigration work—first as a Liman Fellow with the Capital Area Immigrants' Rights Coalition and then as an immigration attorney with the Florida Immigrant Advocacy Center. She explained that, after unsuccessfully looking for someone in government “on the inside who could fix things,” Hoy took an opportunity to

become that person, by working as Chief Counsel for Senate Majority Leader Harry Reid for nearly a decade. She then became the Senior Counselor to Secretary of Homeland Security Jeh Johnson. Hoy detailed how she had made an impact from within, even as some of the changes she had helped to bring about were not always vivid from the outside.

Marc Silverman was a Liman Fellow in 2004 at Advocates for Children of New York. Silverman currently works as an Assistant United States Attorney for the District of Connecticut. When he was a Liman Fellow, he represented students who were not receiving appropriate education services from the New York State Department of Education. But Silverman felt that the students he helped were but a drop in the bucket in terms of the vast numbers of students whose needs in the public school system had not been met. At the United States Attorney's Office, Silverman sought out a role working on President Obama's clemency initiative and has seen how he has been able to have success as an advocate inside government.

Two of the other panelists, Holly Thomas and Josh Civin, are now in state and local government; both started their legal careers with Liman Fellowships at the NAACP Legal Defense Fund (LDF). Holly Thomas, a 2004 Liman Fellow, focused on individuals serving sentences of life without parole (LWOP) for crimes committed when they were under the age of eighteen. At the time, no one knew the numbers, and she did the research to map the LWOP population of Mississippi. Thomas moved to the Civil Rights Division of the Department of Justice, where she worked on an array of issues, including prosecution of police officers for civil rights violations and Title VII's applicability to transgender discrimination. Thomas moved to the state level, first at the New York Attorney General's Office as Special Counsel and now as the Deputy Director of Executive Programs at the California Department of Fair Employment and Housing in Los Angeles. Again, Thomas sees her ability to have an impact by shaping agendas and priorities and developing policy.

Josh Civin is now the General Counsel for the Montgomery County Public Schools in Maryland. His career in local government actually began before law school, when he served on the Board of Aldermen, New Haven's City Council. There, Civin pressed for a living wage bill, and he became a client of the LDF, before working there as a Liman Fellow. In between, he clerked on the Ninth Circuit Court of Appeals for Stephen Reinhardt and on the United States Supreme Court for Justice Ruth Bader Ginsburg. After private practice, Josh returned to the public sector. He explains that at the Montgomery County Public Schools, he considers himself a “civil rights lawyer on assignment,” as he uses his expertise in education law to find ways to make more opportunities for the county's children.

Legacies of Attica: Moving Criminal Justice



Judith Resnik; Sonia Kumar, Staff Attorney, ACLU of Maryland (Liman Fellow 2009–2011); Devon Porter, ACLU of Southern California (Liman Fellow 2016–2018); Megan Quattlebaum, Director, Justice Collaboratory, YLS (Liman Fellow 2010–2011 and Senior Liman Fellow in Residence 2013–2014); Dwayne Betts, PhD Candidate, YLS (Liman Fellow 2016–2017); Margot Mendelson, Staff Attorney, Prison Law Office, Berkeley, CA (Liman Fellow 2009–2010)

In 1972, Arthur Liman wrote that the criminal justice system was “at least as great a part of the problem of Attica as the correctional facility itself. The process of criminal justice will never fulfill either its promises or its obligations until the entire judicial system is purged of racism and is restructured to eliminate the strained and dishonest scenes now played out daily in our courtrooms. . . .” Forty-five years later, in her award-winning history of the Attica uprising, Heather Thompson explained that the “Attica prison uprising of 1971 shows the nation that even the most marginalized citizens will never stop fighting to be treated as human beings. . . . This is Attica’s legacy.”

To close the Colloquium, the panel *Legacies of Attica: Moving Criminal Justice* reflected on criminal justice reform in the decades after the historic uprising at Attica Prison and its investigation, led by Arthur Liman. The session looked at the criminal justice system from policing, prosecution, and defense to incarceration and discussed the progress—and lack of progress—in all of these arenas.

Megan Quattlebaum was a Liman Fellow in 2010 and a Senior Liman Fellow in Residence in 2013. She then became the Director of the Justice Collaboratory at Yale, which is an interdisciplinary group of researchers who merge theory and empirical research to press for criminal justice reforms. Quattlebaum discussed the work she has done with police departments around the country as part of the National Initiative for Building Community Trust and Justice, a project funded by Department of Justice to help police departments improve relationships with the communities they serve. In this fraught and tragic period for policing issues, Quattlebaum urged reformers not only to recommend specific changes but to formulate a vision of ideal policing in this country. To do so, she noted that, fifty years ago, two pivotal

reports from presidential commissions were published—one by the President’s Commission on Law Enforcement and the Administration of Justice and another by the National Advisory Commission on Civil Disorders. Both reports sought to shape a new form of policing, with social welfare at its core, on the theory that officers trained in the problems of their communities would interact with neighborhoods in a different way. Quattlebaum argued that recommitment to those goals was needed as were new ways to achieve them.

Pretrial detention and criminal defense was Devon Porter’s topic. She is a Liman Fellow working at the ACLU of Southern California on how to limit the fees imposed on poor criminal defendants in California, both pretrial and after conviction. Traffic fines are a common gateway into the criminal justice system. Failure to pay the fines can result in a suspended license, and driving without a suspended license is a misdemeanor offense, resulting in additional fees. The consequences of poverty, therefore, can snowball. Porter was part of a group at the ACLU focused on so-called “registration fees.” L.A. County charged \$50 whenever a public defender was appointed and, in some cases, defendants opted to represent themselves to avoid paying the fee. Victory came after the Colloquium when, in June of 2017, the L.A. County Board of Supervisors abolished the fee.

Post-conviction incarceration is also in need of radical reform. Judith Resnik reminded the group that before the 1960s, federal courts relied on what judges literally called the “hands-off” doctrine—that federal courts ought to have nothing to do with state prison administration. But beginning in the 1960s, the law shifted. In 1967, federal trial judges in Arkansas concluded that shocking prisoners (with what was called a Tucker Telephone) violated the Eighth Amendment. As for the whipping that the prison administration used as discipline (for “offenses” such as leaving too much cotton in the fields or failing to weed the strawberry patches), lower court judges said it could take place—as long as it was rule-bound, with notice and a “dispassionate” decision. But, a year later, then-appellate Judge Harry Blackmun ruled whipping out, as beyond the punishment that civilized societies could inflict. And just three years later, the Attica uprising put the violence and degradation of prisons before the country. For some, it was a wake-up call, and for others, it hardened attitudes towards prisoners.

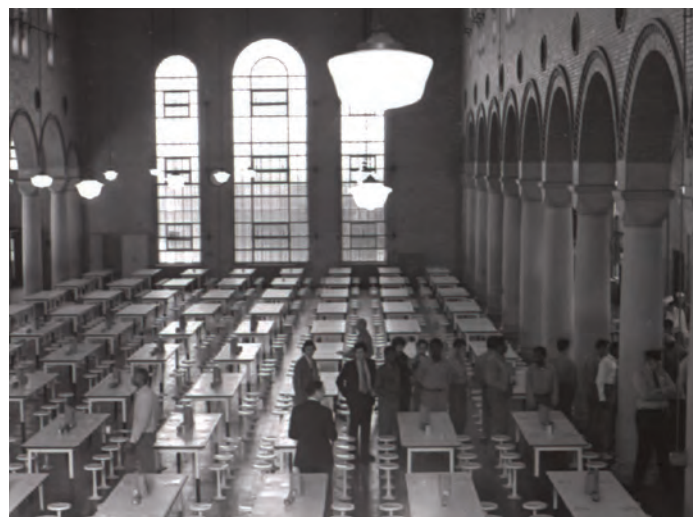
Resnik outlined the data developed by the Association of State Correctional Administrators (ASCA) and the Liman Center on the numbers of people in isolation—80,000 to 100,000 in prisons as of the fall of 2014. She also provided glimpses of the degree of isolation (phone calls as infrequent as once every three months in some jurisdictions) and the duration of confinement. In 2016, with only about half of the jurisdictions in the United States reporting, ASCA and Liman identified more than 6,000 people held for 22 hours a day, for three years or more. Resnik noted that some correctional systems were making significant changes. A few jurisdictions aimed to abolish solitary as it is currently practiced.

Margot Mendelson held a Liman Fellowship in 2009 with the University of Arizona in Tucson and the Migration Policy Institute in Washington, D.C. She is now a staff attorney at the Prison Law Office in Berkeley, California. Her colleagues were the lead lawyers in decades-long litigation successfully challenging overcrowded conditions in California prisons. Mendelson is working on the punitive use of diet and forced sleep deprivation in jails. She described “the loaf,” a barely edible food that meets basic caloric needs and is used as punishment, as well as continuously lit cells that make sleep impossible for prisoners. She also discussed the practice of discharging actively psychotic prisoners without medication. Despite all of these egregious practices, Mendelson, like Resnik, sees some reasons for optimism. She noted that the public is starting to understand the impact of isolation, and she sees hope in the fact that correctional administrators and other stakeholders are talking about alternative models for prisons and jails.

Sonia Kumar is a staff attorney at the ACLU of Maryland, where she was a Liman Fellow from 2009 to 2011. Kumar has worked on the distinct problems of girls in detention and of individuals serving life sentences in Maryland. She described how prison regulations limit contact by prohibiting greeting cards, reducing visiting hours, and banning physical contact during visits. Parents, for example, cannot hug their children.

These policies, all in the name of prison security, diminish the humanity of the men and women in prison. Kumar challenged the narrative in the prison operations world that relationships—within prisons and between prisoners and their loved ones on the outside—are disruptive to institutional security. Kumar highlighted how “lifers” in Maryland have themselves found ways to bring attention to these problems. She urged reformers to listen to prisoners, who can turn “hopeless” causes into opportunities for change.

Kumar’s comments intersected with those of Dwayne Betts, a 2016 Liman Fellow working at the New Haven Office of the Public Defender to stop the transfer of youth to adult criminal court for prosecution. Betts noted that in 1971—the same year as the Attica uprising—the Connecticut legislature lowered the age of criminality from 18 to 16—bringing more young people into the criminal courts. As Betts detailed the people he knew caught in prison for years by this system, he reflected on how the problems of 1971 at Attica persist. Betts argued that one of the problems is the use of the word “criminal” to describe a person; that term categorizes individuals by reducing their whole being to single acts and undermining the many other identities that individuals have.



News clippings and photograph about the Attica investigation, from the Liman archives at Yale's Sterling Library

Pathways in Public Interest

Public service, in my view, is a lawyer's privilege, one of the rewards of the profession. It is not an act of duty or charity. For a lawyer, public service is as natural as breathing. It is what we do when we're at our best.

—Arthur Liman, *Lawyer: A Life of Counsel and Controversy* (1998)

LAUNCHING PUBLIC INTEREST CAREERS: RECENT FELLOWS AND THEIR WORK

Adrien Weibgen

Staff Attorney, Urban Justice Center,
Community Development Project

Liman Fellow 2014–2016



The neighborhood where you are born and raised is a roll of the dice that influences everything that comes after. I was born and raised in Teaneck, New Jersey, a remarkably diverse suburb of New York with large and thriving Irish, Filipino, Orthodox Jewish, Black, and Latino communities, among others. My parents—immigrants from Germany and the Philippines—leveraged a work-related educa-

tion benefit to send me to an elite private school a few towns away. The school mainly served the one percent and was nestled among mansions, atop a hill. Down the hill and over the railroad tracks was a large public school that served the poorer, browner part of town.

I don't know what happened next for the students of that other school, but I headed to college at Wesleyan University and moved to New York City after graduation, where I got a job working at an impact-litigation firm focused on racial justice issues. There, I experienced for the first time both the power and frequent frustrations of work that seeks to use the law to dismantle injustices that have been built over decades. I believed myself to be righteous: a class-privileged person who had come to see the light, a person of color who stood in solidarity with other communities of color to dismantle structural inequality. I was an ally; I had evolved.

But I couldn't help but notice that my friends and I were the only non-Latino people on our block in South Park Slope and perhaps the only group of roommates in our family-friendly enclave. I couldn't help but wonder whether white friends who were moving to Prospect Heights, Crown Heights, and Harlem were doing something bad just by living where they did and buying coffee at the new shops that seemed to always spring

up just for them. Working on projects nationally, not locally, my discomfort with battling racial injustice elsewhere while contributing to gentrification and displacement in my own city grew. I wasn't sure if there was anything I could do about it, but I knew it was important to try. I proposed a Liman project focused on land use issues in New York—a fellowship that began my career at the Community Development Project at the Urban Justice Center, where I have been for the last three years and plan to remain indefinitely.

Every day, I battle the historic and present-day injustices that have helped to make New York City one of the most diverse, yet segregated, cities in America. New York is, as a client said recently, the belly of the beast in the belly of the beast: in one of the hottest real estate markets in the country, in a country where ownership of real estate has been a primary driver of wealth and structural inequality across generations. Within this context, I ask myself every day what role I as a lawyer can and should play, with Audre Lorde's warning that "the master's tools will never dismantle the master's house" ever on my mind. I do not believe that lawyering or the nonprofit industry will end the injustices of the property system or bring about the serious and revolutionary change this country needs; each field is too embedded in the systems we already have. So what's a revolutionary spirit to do?

Follow the lead of directly impacted people. As an attorney who works exclusively with groups of people in low-income communities of color, immigrant communities, and other neighborhoods that have experienced structural divestment and marginalization for generations, I have the opportunity to work with many of the smartest organizers in the City—people whose vision and campaigns constantly challenge the world that others take as inevitable. Just last week, a group of clients secured a historic victory when their right-to-counsel campaign became law. New York is now the only city in America where every tenant facing eviction in housing court will be guaranteed an attorney. The campaign started in a community meeting five years ago, when organizers asked community members about the kind of world they dreamed of and one said: one where no tenant has to face housing court alone. Her dream—held and uplifted by so many people, over so many years—has changed this city. Also last week, the City of New York made its first significant financial commitment toward the establishment of community land trusts: a model of community-controlled land ownership that separates the ownership and governance of buildings and land, preventing land from being sold to the highest bidder. Picture the Homeless (PTH) has been organizing

around this idea for over ten years as a way to create community control, stability, and deeply affordable housing for the people who need it most, but until recently, city officials dismissed it as impractical and pie in the sky. Now, PTH has won a foothold for what once seemed like an impossible dream in the landscape of NYC policy, a victory that has begun to lay the groundwork for the establishment of future land trusts citywide.

In my role, I work with client groups to develop policy, devise strategy, and negotiate, working toward contracts, agreements, and policy solutions to help build the world they want to see. To the extent that there is an average lawyer who has average days, I am pretty sure I am not that person. The position is challenging; building a plane as you fly it is not as glamorous as it sounds. But I am immensely grateful for the unique professional space the Liman fellowship has helped me create. I have the honor of supporting my clients in making real the better world they know is possible, and that is nothing short of extraordinary.

Dwayne Betts

PhD Candidate in Law, Yale Law School

Liman Fellow 2016–2017



At this year's Liman Conference, I wanted to talk about my own failures. There is a suggestion, always, when people as committed and accomplished as the Liman Fellows and professors who have trained us come together—the suggestion is that the wins outweigh the losses. Or that, in the calculus of it all, the losses should not be spoken of publicly.

After three years of law school, I found myself haunted by my losses, more so than any success. In my law school application, I wrote about Markeese Turnage, sentenced to more than sixty years in prison as a sixteen-year-old for attempted capital murder. Arrested for stealing a car, he reached for an officer's gun. The story he tells is that he attempted to turn the gun on himself before it was wrestled away. The officers say he pointed at them and they were saved only when the gun jammed. Two years prior, Markeese had attempted to hang himself. Staff cut him down, suspended from a sheet in a juvenile detention center. In my application, I said that I went to law school for him. Yet despite dozens of conversations, despite reaching out to friends, to respected attorneys—despite *Roper v. Simmons*, *Graham v. Florida*, *Miller v. Alabama*—I have not found an attorney to represent him.

During our panel at the Colloquium on *The Legacies of Attica*, I wanted to say something about how prisoners frequently lead the theoretical underpinnings of reform. See, I know that in 1998, Markeese and I wrote a letter to the ACLU. We lacked the

legal language, but we knew that a life without parole sentence for a non-homicide offense was the antithesis of justice. Their response: a form letter. I've carried a fair amount of anger inside me since receiving that letter. But it didn't lead me to go to law school, it taught me that the law might be something distinct from what would save us. I went to law school, hoping to prove myself wrong. Four years later and Markeese still does not have an attorney. I'm not sure where I stand.

But following the panel, one of the former Liman fellows reached out to me. We began the work of finding an attorney for Markeese. That work meant, really, becoming his attorney ourselves. Writing the memo on his case. Reading the long file that exposed how absurd it all is, the decades that he has now been in prison. The work of preparation reminded me that I didn't decide to go to law school to find Markeese a lawyer—I went to law school to be the lawyer, for him and others. And ultimately, though I was extremely frustrated about it all during the conference; though I am always frustrated about it all, the reality is that Liman is about doing the work, however inadequately.

Two decades ago, a bunch of dudes from Richmond wanted to rob me. I was cell partners with Markeese and they figured that he could just leave the cell door open one morning when it cracked for breakfast. They would run in, take all I owned, leave me bloody. Markeese refused. He, like me, wasn't but sixteen. But he told me about the plan and started carrying around a weapon, just in case. This is all to say that I didn't go to law school to fight for justice, I went to fight for my friends and that means, I think, recognizing where we fail and doing something about it.

TEACHING LAW

Fiona Doherty

Clinical Associate Professor of Law, YLS

Senior Liman Fellow in Residence 2011–2012



The invitation to speak on a Liman panel entitled "The Academy and the Public Interest" gave me a chance to reflect on just how much my experiences at Yale Law School have shaped and nurtured my career. I graduated from the Law School in 1999, and I came back to teach in 2011. After more than ten years of practice—first in international human rights law and then in criminal law—I

returned as the inaugural Senior Liman Fellow in Residence. I am now a clinical associate professor of law and teach in the Jerome N. Frank Legal Services Organization (LSO).

The clinics have long been my home at the law school. As a student, I was lucky enough to take the Prison Legal Services Clinic with Professor Brett Dignam for two and a half years. Many of my best memories of law school are of the happy days I spent in the student workrooms of LSO, which contained almost all of Yale's clinics at the time. I vividly remember the sense of camaraderie and purpose that spilled out of the strategy sessions that took place in these rooms and the extraordinary talent and commitment that my fellow students brought to their cases. From my earliest days in the clinics, I knew what a special place I had found.

In addition to the clinics, the class that ended up having the largest impact on my career was the rich and intricate seminar on federal sentencing that was taught by Professor Daniel Freed and the Honorable Nancy Gertner. I took this year-long seminar in my third year. Five years later, while interviewing to become an Assistant Federal Defender in the Southern District of New York, it became clear to me (all over again) just how much I had learned in this class. During the interview process, I was able to draw on my expansive grounding in the history, theory, and practice of federal sentencing to get the job, despite a lack of trial experience. The topics that we discussed in the sentencing seminar—and the many different ideas and perspectives that we considered—proved to be deeply relevant to the many challenging cases that I handled in five years as an Assistant Federal Defender.

As a clinical professor, I have focused on criminal justice and sentencing issues, which reflects the continuing influence of my own early experiences as a student. Shortly after returning to the law school, I launched a Criminal Justice Clinic (CJC), which gives students the chance to defend clients inside the system and develop insights about opportunities for reform. Beginning in their first semester, CJC students represent indigent clients accused of misdemeanor and felony offenses in the New Haven Superior Court. In continuing semesters, Advanced CJC students have worked on a broad range of state and federal sentencing cases. President Obama recently granted two federal clemency petitions that the clinic submitted on behalf of its clients, for example. One of these clients had been serving a life sentence for drug offenses, and the other had been serving a 22-year sentence for a drug offense that he committed while in his twenties. Both clients are now out of prison.

On the state level, Advanced CJC students have been engaged in a two-year study of Connecticut's parole revocation system at the request of Governor Dannel Malloy. The clinic has undertaken this study as part of the governor's Second Chance Society initiative, which is aimed at reforming the state's criminal justice system and reducing the prison population. Sarah Baumgartel helped supervise the early stages of CJC's parole study when she was the Senior Liman Fellow in Residence.

These initiatives recently drew national attention when *Frontline* aired a one-hour episode, called "Life on Parole," on July 18, 2017. To understand the impact of Connecticut's ongoing

efforts to reform its parole system, the producers filmed the exchanges among four parolees, their parole officers, and their families. I was one of the commentators, and what I discussed drew on my own law review articles that analyze onerous conditions of parole and probation. People can be returned to prison for violating conditions that are not themselves crimes, such as missing scheduled meetings or possessing alcohol. The *Frontline* episode is available at <http://www.pbs.org/wgbh/frontline/film/life-on-parole/>.

CJC students are currently making detailed policy recommendations to the Board of Pardons and Paroles on reducing the high rate of incarceration that has long resulted from parole revocation proceedings in Connecticut. Because of the depth of student interest in these issues, I launched an Advanced Sentencing Clinic in the fall 2017 semester, in conjunction with my colleague Professor Miriam Gohara. Our new clinic will work on reforms to parole, probation, and supervised release systems under state and federal law.

Since coming back to the law school, I have also co-taught a seminar on federal sentencing. I taught this seminar with Professor Denny Curtis and with Sarah Russell, now a law professor at Quinnipiac Law School and a former Director of the Liman Program. Teaching the seminar was deeply meaningful to me in light of how much the erudition and insight of the late Daniel Freed affected my own career.

Throughout my six years back at the law school, I have been warmly welcomed and supported by the Liman Center, which has become a leading light for criminal justice reform efforts across the nation. I have been fortunate to participate in many Liman projects and events over the last several years, and I have benefited deeply from the mentorship and vision of Professor Judith Resnik. I look forward to much fruitful collaboration with the Liman Center in the future.

Marisol Orihuela

Clinical Associate Professor of Law, YLS

Liman Fellow 2008–2009



As a brand new clinical professor this past year, the question of what role academia should play in furthering the public interest feels omnipresent. Although clinical teaching is, by its nature, involved with the outside world, the question of what relationship to have with public interest communities or in achieving social change is a choice that academics engaged in clinical teaching—and perhaps otherwise—have to make. This issue is especially pressing for clinical teachers, who must also meet pedagogical

goals and ensure that their work provides their students a thriving learning environment.

Clinical professors rightly, in my view, structure their client relationships in widely varying ways. Some take very few cases, focusing intently on skill-formation and perfecting the practice in an area of law. Others, including myself, take on a variety of matters, sometimes learning areas of law alongside our students. But for all academics engaged in clinical teaching, a close relationship with public interest communities—both legal practitioners and community advocates—is necessary to making thoughtful and intentional choices regarding what work to engage in and what relationship to have with social change movements. Likely due to my background as an activist, my guiding principle on how to make these choices is based on determining what I am well situated to do as an academic, and what I am poorly situated to do.

To be clear, I disagree with those who argue that there is or should be no difference between academia and the public interest. “Academic freedom,” and by that I mean time, financial resources, and flexibility, are all privileges that academics in clinical teaching enjoy that public interest communities rarely have. When I worked as a public defender, I had strict limitations on the type of work I could engage in. Nonprofit organizations are usually subject to approval by a board of directors for new litigation or forms of advocacy. Those organizations that fund their work partially or exclusively through grant funding also must adhere to limitations by the grant organization.

The time and financial resources that academics enjoy thus stand in contrast to that of public interest communities. For example, in a clinic case we worked on seeking a resentencing hearing for a person sentenced effectively to life without the possibility of parole as a juvenile, we staffed the matter with two attorneys and five students. For our typical immigration case, we staff two attorneys and anywhere from two to four students. Most criminal defense and immigration practitioners who handle these types of cases litigate alone.

These privileges call upon academics to use their resources thoughtfully and, most importantly, intentionally. The flexibility we have in forming a docket and choosing where to extend our institutions’ resources means we can litigate issues that others may be restricted from litigating or that lack support from an overseeing board or funder. The time and financial resources we benefit from mean we can, and should, spend time and resources developing new ways of advocating for the communities we serve and developing creative legal strategies.

Further, a close relationship between academia and public interest communities is necessary because academics, particularly those committed to effecting social change, must learn from public interest communities. Public interest lawyers are viewing legal problems on a daily basis and see issues as they arise. Community advocacy organizations are much better situated than academics to know what the communities we strive to serve are concerned about and what social change they

are clamoring for. Without a close relationship, academics are missing out.

I highlight the difference between public interest lawyering and academia because I strongly believe teaching is not for everyone. I do not intend to romanticize academia. Lawyers work long hours and must have a source of energy that sustains them, and for many lawyers this source is their client relationships. Even clinical professors who have clients do not enjoy as direct a relationship as practitioners have with theirs.

Clinical professors must also love mentorship. Public interest practitioners enjoy spending most of their time on the causes they serve. If mentorship is a cause that you serve, then clinical teaching might be for you. When I became a public defender, I quickly grew to believe that being one was only sustainable if public defense was a calling. In the past year I have grown to believe the same about teaching. At a time where being in the trenches of public interest work feels incredibly pressing, I am heartened by what is possible in academia when we work closely with public interest communities.

Hope Metcalf

Executive Director,
Schell Center for International Human Rights

Liman Director 2010–2014



This year was a doozy.

In the weeks following the election, life became a swirl of frantic planning, protests, surreal debates about the difference between “fascist” and “authoritarian.” I met for hours with students terrified for themselves and their families. I shuttled between addled and numb. Everything around me felt like it was on fire, and I was carrying a bucket. Well, a

thimble, really. But a thimble nonetheless.

And so it went for the next six months. Until a summer intern stopped me on the street as I was running back to my office with my second iced coffee of the day and reading emails on my phone. “Do you have a minute?” Well, no. I don’t. Haven’t you been reading the papers?

He wanted to talk to me about a lecture I had just done on trauma and resilience. I recapped some of the big points. First, the ways that our bodies react to traumatic stress are more or less hard-wired, and, while useful in true emergencies—for example, fleeing a burning building—they can prove destructive over time. Second, remarkably, the act of empathy is not only a moral, but a physical exercise, in which the empathizer’s brain mirrors the response of the actor. Third, our bodies do not distinguish between “good” and “bad” forms of stress, and there

is no more point in judging our own emotions than in judging your swollen toe after you stub it. And, finally, resilience is not a character trait, but a set of practices that can be learned and shared.

After patiently listening, what he really wanted to know was: “But can I really do this over a lifetime?”

Oh. Right. And as I stumbled to find an answer, I realized that, over the last six months, I had undone just about everything I had learned about trauma and resilience.

Every time I take my students on their first visit to a supermax prison, we talk about what a supermax is, how it functions, what it represents—but also how it *feels*.

How does it feel to be in a tiny, concrete, windowless space? When an unseen hand presses a button and the pneumatic locks close? When your client enters, flanked by two officers, his hands and feet shackled? When the officers chain his ankle to a steel loop on the floor? When, from another end of the unit, you suddenly hear shouting or smell pepper spray? How does your body react? Does your heart race? Where does your mind go? And when you finally leave the prison—after collecting sorrows and injustices and hopes from your client that mostly lie far beyond the reach of you or the law—how do you make that journey? Do you breathe the fresh air and admire the wide sky? Do you try to unhear what you have heard? Do you try to unsee what you have seen?

It took me more than a decade to ask myself these questions. Before then, like so many public interest lawyers and students, I choked down my own sadness and doubts. Sure, there were a few signs, like the time I fled the theatre during *Slumdog Millionaire*, which opens with a protracted torture scene. Or when our clinic celebrated with a group of clients who had fought and won their immigration cases, and, halfway through their speeches, I suddenly burst into tears. Not happy, quiet tears. Messy, gulping sobs.

So, with my students, I try to help them learn to identify and to accept the feelings—sometimes inchoate, sometimes acute—that accompany a trip to and from supermax. This can be challenging. After all, we are not directly in harm’s way. In a very real sense, we can leave.

Except that—if we are doing our jobs—we *don’t leave*. Or, at least, we must return.

This is not to equate our experiences with our clients’ experiences. That would be ridiculous. But it is to acknowledge a fact: to stand and fight alongside people who have experienced violence—in its many forms—is to be forever changed.

To witness—to truly see—what our clients experience, we cannot emerge whole. Psychology teaches us that one of the most profound and lasting effects of vicarious trauma is moral injury: the sense that basic principles stitching society together have ripped apart. To be a public interest lawyer—to align one’s life with people who are ignored, hated, disappeared—is to have a constant reminder about society’s darkest impulses.

Bryan Stevenson, when speaking of his decades in the fight for racial justice, often says “I am broken.” So am I.

But broken doesn’t mean broken down.

Over time, I have come to learn that we will grow in our broken places. The question is how. Will we grow inward, stooping under our own guilt and shame? Will we harden under layers of cynicism? Or will we stretch upwards and outwards?

There is an emerging field of research in “vicarious resilience,” which posits that just as our empathic responses mimic others’ pain, so, too, can we mirror others’ strength. And often, those best able to model resilience for us are our own clients. Even in desperate circumstances, people show remarkable resourcefulness. And purpose. And kindness. I just have to remember to lift my head up and look.

So this is what I wish I had said to the summer intern. Yes, you can do this. But you can’t do it alone.

IN FOR THE LONG TERM: RESILIENCE AND SUSTAINABILITY

McGregor Smyth

Executive Director,
New York Lawyers for the Public Interest

Liman Fellow 2003–2004



I’ve been thinking a lot about resilience lately. We live in a darkening time—it both motivates and enervates. We’ve been shocked by draconian changes in policy, unprecedented threats to our communities, and the venality and hostility revealed in so many of our fellow Americans. The explosion of hate, the Muslim ban, attacks on sanctuary cities, attempts to decimate healthcare

for millions, active voter suppression, dismantling of environmental protections. Presidential disdain of people of color, immigrants, people with disabilities. Charlottesville.

But I draw hope from a remarkable year of resistance, resilience, and solidarity. Thousands of lawyers mobilizing at airports across the country after the first travel ban. Hundreds of thousands of Americans calling their elected representatives, often for the first time, to make their voices heard and beat back the cruel health care repeal effort. Over a million people protesting threats to progress at repeated actions across the country.

In this new normal, a panel at the Liman Colloquium asked what it means to be an entrepreneurial public interest lawyer. Indeed, our clients’ struggles for justice often require the most innovative solutions, weaving together organizing, policy advocacy, litigation, and comprehensive communications to

achieve lasting change. Justice has always been tragically countercultural, framed by systems too often defined by structural bias. It takes passion, energy and endurance to engage in the fight.

In these times of threats and uncertainty, we must think about not only how to achieve the change we need, but also how to make our organizations themselves “entrepreneurial”—creative and resilient. Our nonprofits and leaders must create the conditions to foster innovative work and sustain staff for the long haul. The difficulty, of course, lies in constantly balancing the mix of competing organizational traits to create a sustainable culture of justice. In the spirit of Bill Quigley and Rebecca Solnit, below are some thoughts on how to prepare for the marathon ahead.

Have a clear vision, but the flexibility to build the plane while you fly it. Create shared organizational values and a theory of how change occurs that will guide all decision making. With vision and community-driven goals as your lodestar, apply and assess different tools and strategies constantly. They need not be new, but the mixture and timing always change. Start from a place of yes, and then pursue solutions wherever they lead you.

Embrace uncertainty. In uncertainty lies possibility—the space for action and change. Without uncertainty, existing inequality would never change. Uncertainty powers innovation and creates hope in the darkness. Create a culture with a high tolerance for ambiguity and experimentation. Celebrate failures as well as successes. Recognize as well that uncertainty generates both hope and fear, opportunity and stress. Build internal cohesion and supportive structures to compensate.

Build power and agency in every person on staff. Distribute leadership of cases, campaigns, projects, and organizational efforts whenever possible. With supportive supervision, it builds skills and ownership that increases staff investment and organizational capacity.

Set high expectations for your staff and the work. Develop your people to meet these expectations in a way that does justice to your mission, building a culture of inclusion, collaboration and support for each other, and constant improvement of advocacy skills. Hire the right people and keep the right people. Recognize that your model requires a different skill set than traditional legal work and does not fit all people or problems. Seek as well those whose background and experiences reflect your client communities. Create safe spaces to provide solidarity and community to cope with inevitable setbacks, conflicts, and trauma. Actively build the personal connections and trust required for difficult and critical conversations about equity, justice, bias, and inclusion. Foster a willingness to be uncomfortable.

Build relationships to guide and sustain you. Clients, mentors, colleagues—you can do nothing without them, and they make your work possible. Lean on others early and often, with cultural and personal humility, and return the favor always. Within the organization, celebrate each person when they leave to help knit

a larger social justice community, and make sure they depart as stronger advocates.

Protect time for reflection. Set aside a regular Shultz hour to rise above day-to-day tactics and focus on the strategic and creative. Take on writing opportunities—articles, op-eds, funding proposals—that shape and hone reflections. Encourage team-based debriefs on successes, failures, and setbacks. Maintain high expectations with intensity, but avoid hyperactivity that leads to distraction and burnout.

Our generation’s battle in the long war for civil rights and social justice has erupted with startling intensity. With resilience and solidarity, we can turn hope into action, and action into change.

Serena Hoy

Former Senior Counselor
to Secretary of Homeland Security Jeh Johnson

Liman Fellow 2001



Along with Liman Fellows Josh Civin, Tom Jawetz, Marc Silverman, and Holly Thomas, I was asked to participate in the *In and Out of Government* panel, moderated by Harold Koh. As a Liman Fellow, I worked as an immigration lawyer at the Capital Area Immigrants’ Rights Coalition. Later, I moved to the Florida Immigrant Advocacy Center in Miami, before I went to work for Senate Democratic

Leader Harry Reid and then for Secretary of Homeland Security Jeh Johnson as a political appointee until the end of the Obama Administration.

On the panel, I told the story of how and when I first began to appreciate the role of good people “on the inside.” When I was in Miami, I had a particularly complex case that fell at the intersection of the three agencies with jurisdiction over immigration issues at the newly created Department of Homeland Security. After officers from Immigration and Customs Enforcement (ICE) arrested my client at her asylum interview, lawyers in the General Counsel’s office at U.S. Citizenship and Immigration Services went above and beyond to help me sort out their piece of the case. But what I really needed and never did find was a contact at Customs and Border Protection (CBP), as it was the Border Patrol’s error that had led this case to get so screwy in the first place. After this experience, I put in an application for a vacant position in the CBP General Counsel’s office, with the idea that I could be the person that people like me could call at CBP for common-sense help sorting out complex cases and policies. Although my informal career advisors talked me out of pursuing that particular option, I have

ever since appreciated the importance of having good people to work with inside government.

I know, from speaking to many colleagues who have worked on the Hill and in the Executive Branch, that many of us have at times felt frustrated with the outside advocates with whom we regularly work. Some (most definitely not all) of these advocates use language and a tone that seem to indicate they view individuals who have chosen to work for the government as adversaries.

I have always found the most effective advocates to be those who understood that we might have a shared understanding of some of the issues we work on and that we could work together strategically, as partners—that there are good people who have determined that they can seek change most effectively from the inside.

For change to happen, everybody has their role; we must have people on the outside and the inside working for it. And the reality is that we probably need the advocates who have a more aggressive, confrontational style to move the reference points and create space for the formation of more just public policies by other advocates who work in partnership with their counterparts in government.

We discussed on the panel that the vantage point from which Liman Fellows and others choose to work for just public policies is probably largely personality driven. For example, I do not particularly care for conflict, would like everybody to get along, and generally give the benefit of the doubt, perhaps to a fault, to those taking actions with which I disagree, trying to view the situation from their perspective. In contrast, for example, my fellow panelist Tom Jawetz has realized over the course of his career that he draws his motivation from a good fight against injustice and is at his best in a more adversarial posture.

The former government staff on the panel discussed the idea that it can be easy to advocate from the outside, when you are lobbying for the best policy in a vacuum and are not responsible for making the hard choices governing entails. Many good people on the inside are trying desperately to do the right thing, but must navigate fiscal, political, and other obstacles to get there; they must determine what is realistic and achievable in current financial and political contexts. The most effective advocates will anticipate and try to understand these obstacles and offer potential solutions (or sue to force the change that many on the inside might seek but be unable to achieve!).

While often quite challenging, I found government service to be an extraordinarily satisfying and rewarding experience. I loved being able to fix things that didn't make any sense, to solve problems, and to get things done at a systemic, rather than individual level.

At the same time, my previous experience as a lawyer and advocate with concrete real-world experience working on behalf of individual immigrants made my opinions and advice more valuable and credible once I joined the government.

Which brings me to one of the other helpful messages

from the panel: People can and do move around significantly throughout the course of their careers. These changes may be motivated by different professional interests; personal lives, such as a spouse's new job or the need for a shift in work/life balance; or a change in administration. May the Liman Fellows continue to find the most effective and rewarding positions from which they can maximize their potential for achieving positive change and justice!

Jorge Barón

Executive Director,
Northwest Immigrant Rights Project

Liman Fellow 2005–2006



I have been privileged to serve as the Executive Director of Northwest Immigrant Rights Project for the past nine years. However, like many other program directors in the legal services community, I never felt I was quite prepared or trained for this new role. Transitioning from a staff attorney for a legal services organization—a position in which my focus was on providing direct

services to clients—to my current role has nonetheless provided me with an opportunity to explore some of the challenges the public interest law field faces when it comes to issues of resiliency and sustainability.

One key issue we face is ambivalence about fundraising and resource development efforts. These sentiments are understandable on some level: When I was a staff attorney, I was constantly exposed to the intense need for legal assistance faced by our clients and also to the dramatic difference that our work could make on their lives. It was understandable, then, that my feeling at the time was something along the lines of: "This is important work, someone should just fund it!"

Of course, I quickly learned after taking on my current role that the work doesn't "just" get funded, but that a lot of effort goes into securing the resources necessary to sustain it year after year. And this effort itself requires time and resources, not least of all because legal services work is not the easiest to explain to the broader community. After all, if I tell you I work at a food bank, most people get what that means, but if I tell you I work at an immigration legal services organization, that's harder to understand.

I do appreciate that some of the unease many of us in the public interest law community have about fundraising stems from a legitimate concern that development efforts will push us to focus only on the sympathetic stories (and therefore sympathetic cases): the unaccompanied immigrant

child; the domestic violence survivor; the veteran wrongfully denied disability benefits. But this danger can be mitigated if our fundraising work is firmly moored in solid organizational values that reject the notion that only some members of our community are “deserving” of legal assistance.

In the end, we have to appreciate that if we are not telling the story of our work (which is ultimately what fundraising is all about), we are not fulfilling our responsibilities to our client communities. This does not mean each of us is going to be responsible to make an ask of a donor or to write a grant proposal. But it does mean that we need to be supportive of development efforts within our organizations and movements.

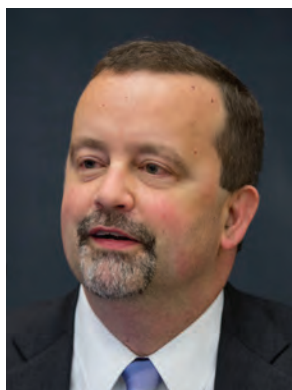
Another obstacle to making public interest work sustainable is our tendency to frequently err on the side of undercompensating our staff in order to get more staff “in the trenches” to help respond to urgent client needs in the short term. This is a tougher issue to address since there is admittedly a trade-off at any particular point between staff compensation and the number of staff who can provide client services. However, the question is sometimes framed as a balance between the needs of our staff versus the needs of our clients, and this framing frequently leads to deprioritizing staff compensation.

I believe the question we should instead be asking is what the right balance is between the needs of the clients of today versus the needs of the clients of the future. When we undercompensate our staff, we risk losing experienced staff who won’t be able to serve clients years down the road. In short, making public interest law work more sustainable and resilient will require us to become better storytellers about our work and to think not just of today’s clients but those that will (sometimes despite our best efforts) still need our help in the future.

Douglas L. Stevick

General Counsel for Labor and Employment,
Texas RioGrande Legal Aid

Liman Fellow 1998–1999



How do we sustain public interest careers? True confession: I feel like a total fraud pontificating about this topic. I have had my fair share of days wondering what the hey I am doing with my professional life or whether I am really making any difference. On the other hand, I have been representing marginalized low-wage workers for two decades now, and I am likely to be doing so for the rest of my life in

the law. So what follows are some intimations on how I have managed to do public interest law for twenty years. My suggestions arise out of my own experience. They may not ring true for

everyone (i.e., your mileage may vary). Truth be told, they don’t even always ring true for me. And I don’t want to be Panglossian about the challenges of sustaining a public interest career. But I can say this: It is doable, it has been done, and it is (usually) fulfilling and rewarding.

1. *Populate your world with people who share your values.*

True fact (with some overstatement for entertainment purposes): Our society usually judges success and worth by three yardsticks. They are money, prestige, and power. The profession upon which we have entered typically is an artifact of and reflects this society.

Realistically, a public interest lawyer will spend huge swaths of their career lacking much of one or all of money, prestige, and power. Some public interest lawyers, such as state public defenders, will whiff on all three.

So what’s a public interest lawyer in a status-obsessed world to do to sustain such a career? I don’t have an easy answer. Two of my hardest days each year are when I read the class notes in my Yale Law Report about the amazing achievements of my YLS cohorts. They all seem to be Senator This, Justice That, Partner The Other Thing, Secretary of the Bite Me Department, or Endowed Chair of Academic Awesomeness. And while my rational self recognizes that these reports are carefully curated, part of me also says, “Here am I, doing the same crummy thing that I was doing when I graduated from law school two decades ago.”

To avoid these blues, I seek out those who share my values. I actively and consciously measure my choices against their values and judgments, because theirs are the views that should and do matter to me. I try to ignore the dominant narratives of our profession.

And while I don’t want to descend into an echo chamber, I recognize that I have been molded by the people and institutions where I have spent most of my time. So I work in organizations that share my values and that are filled with people who share my values, to shape, affirm, and fortify my career choices. They help keep me on the path.

In other words, to (not) coin a phrase: I stay off the treadmill.

2. *Follow your passion.*

To restate the obvious: Sustaining a career in public interest law can be hard. Progress means making the world a more just place. That’s not easy to measure, and it’s non-linear. To gut out the down times for the long haul, I have to pursue something about which I’m passionate.

And here is the key, for me: I need to follow my passion, not something that I think I should be passionate about (or that I think others will respect me for being passionate about). Take an example from my own career: My first post-clerkship job was a fellowship at a prestigious national public interest law firm focused on consumer law. My co-workers were amazing (I still keep in touch with some of them), and the legal work was cutting-edge and complex. The job was also conventionally “prestigious”—a heavy Supreme Court and appellate practice,

consistent coverage by national news outlets, brushing shoulders with the greatness of important people. And I enjoyed the job a lot.

But I didn't enjoy the job enough. It was the perfect job for someone. But that someone wasn't me, because it just wasn't my passion.

As it turned out, I had already stumbled on my passion, during my 1L summer clerkship. And that was representing low-wage workers, many of them non-citizens, in employment litigation. So, at the end of my fellowship, I packed up my big-coastal-city bags and moved to a town halfway between Lubbock and Amarillo in the Texas Panhandle to help migrant farmworkers sue the bad guys.

I just couldn't get over the fact that people working stupid hard in crummy jobs couldn't take for granted being paid the minimum wage, or not being showered with vilely racist remarks, or not being sprayed with pesticides. What these workers wanted was so pathetically basic to my comfortable, clueless, what-me-worry-WASPy-kid-from-the-suburbs self that my only reaction was OUTRAGE. What is our freaking problem that we tolerate this?

Think I made the right choice? Two decades on, I say without reservation that following my passion has helped to sustain me. Follow yours.

3. *Know your limits.*

I have worked closely with scores of new lawyers in my practice. A common thread for those who have not been able to sustain a public interest career has been biting off more than they can chew.

We are public interest lawyers. We are not (or at least I am not) martyrs, heroes, or saints. We're just folks, trying to use our law degrees to make the world a better place. To stick it out over the long haul, we have to know our limits.

Is instant access to world-class entertainment and cultural resources important to me? Do I relish Michelin-star dining, or maybe even just incredibly diverse cuisines a short walk or subway ride away? Then I probably shouldn't take a public interest job in South Texas, whose many virtues do not include any of those things. (For the record, I love South Texas, where I met my wife and got married. But it's not for everyone.)

I'm not judging here. We're all different, but we all do have our limits. Here's mine: It is crucial to my wife and me that we have dinner together as a family around our dining room table almost every night, in a goofy '80s-sitcom kind of way. We want to be daily present for our family. If an otherwise great job would make this impossible by requiring me to work a gazillion hours a week or to be on the road all the time, I'm out. So I am also part-time, which allows me to ferry the kids to activities and doctor's appointments—which is, for many jobs, not an option.

The truth is, as graduates of the Yale Law School, we are incredibly lucky to be in a position to set our limits. And even with us doing public interest work, our kids will still go to college—my

wife and I have devoted our careers to public interest law, and our three kids have never known a day of economic hardship or want in their lives.

4. *That grass over there may not be greener.*

Sometimes I am asked, "Have you ever experienced burnout?" But that's not really the question. The question is, "How many times have you been burned out, and how did you come out of it?"

The answer is that I have been burned out dozens of times in my twenty-year career. At least for me, burnout just comes with the territory of choosing any career path—using a law degree to make the world a more just place—that is inherently frustrating and incomplete.

My key to overcoming burnout(s) has been to recognize, basically, that this too usually shall pass, even for problems as intractable as organizational dysfunction. I find that if I put my head down and gut it out during the tough times, I almost always stumble into something that re-fires my passion—a new client with a compelling story, a new outrage needing to be righted, a fresh crop of new lawyers overflowing with world-changing enthusiasm.

And I remind myself constantly that nothing in this world—no job, no career path, no law school, no relationship—is perfect. Everything has its downside. For example, I have left my current (and longtime) employer three times in the belief that I was seeing greener grass on the other side of a career fence. Each of these other jobs—surprise, surprise!—turned out to have its own set of pluses, minuses, and pathologies. And so I have repeatedly returned to do this work that, warts and all, I care passionately about.

I am not saying that a job or career change is never warranted, just that the grass on the other side of the fence often turns out to be not so green after all.

5. *Optional: Find a fellow traveler.*

Maybe the most crucial piece of the sustainability puzzle for me is the fact that my wife is even more of a do-gooder than I am. She affirms my save-the-world public interest career utterly. When I come home from work and rage against the machine and want to stick it to The Man, she rages even more and validates me on sticking it to him even harder. I could not feel more supported in my loopy career choices, and it does more than anything else to keep me going.

I offer this tip with some trepidation. My path, which is with a wife in a marriage, is not the only option. It works for me. Others will go in different directions. But I can say that having a fellow traveler, however denominated, who is always on my side has helped me climb out of many a career valley.

6. *Keep things in perspective.*

Sustaining that commitment over a career requires putting things in the proper personal and historical perspective.

The first reality check for me is my clients. Most of them try to

support families on about \$7.25 an hour in the face of rampant exploitation and racism. For example, consider an experience of my wife, whom I met when we were both farmworker attorneys at Legal Aid. She was invited to a career “show-and-tell” day at a local elementary school on the Texas-Mexico border. The thing that most impressed one of the students about being a lawyer was the fact that she paid all her bills on time and never had her utilities shut off.

In short, when I look at my clients, I realize just how incredibly fortunate I am. And the fact that I don’t make a seven-figure income or that others aren’t in awe of me? Not real problems.

The second touchstone of perspective is internalizing the fact that, as Dr. King said, the moral arc of the universe is long. Let’s

be real—I’m no Martin Luther King. I’m no Thurgood Marshall, either. I’m just some schlep trying to live my life and career to make the world a better and more just place.

And that’s fine; it is enough. To bend towards justice, the universe needs more than Dr. King and other saints, heroes, and martyrs. It also needs a vast host of ordinary schleps like me and you and as many of us as possible. People whose ordinary commitments weave these great principles into the fabric of our society and everyday lives. The path is long, but I am not alone.

I can’t promise that these tips will always work or that they can ameliorate all of the dysfunctions that often go with being a public interest lawyer. I can just say that, for me, they have worked more times than not.



Anna VanCleave, Director of the Liman Center



Justice Sotomayor



Jamelia Morgan (Liman Fellow 2015–2017)



Ivy Wang, Staff Attorney, Southern Poverty Law Center (Liman Fellow 2013–2014), and Michael Tan (Liman Fellow 2008–2009)



Sirine Shebaya (Liman Fellow 2012–2014) and Sami Shebaya Yasgur



Jeremy Eden, Co-Founder and Co-CEO, Harvest Earnings Group, and Nancy Marder, Professor of Law and Director of the Institute for Law and the Humanities, Chicago-Kent College of Law



Mary Yanik, Staff Attorney, New Orleans Workers Center for Racial Justice (Liman Fellow 2015–2017); Adrienne Weibgen (Liman Fellow 2014–2016); Justice Sotomayor, Caitlin Bellis, Staff Attorney, Public Counsel, Los Angeles (Liman Fellow 2015–2017); Ruth Swift, Deputy Public Defender, Colorado State Public Defender (Liman Fellow 2015–2017)



Adrienne Weibgen (Liman Fellow 2014–2016); Jamelia Morgan (Liman Fellow 2015–2017); Justice Sotomayor; and Sirine Shebaya, Senior Attorney, Muslim Advocates (Liman Fellow 2012–2014)



Marisol Orihuela (Liman Fellow 2008–2009); Michael Tan, Staff Attorney, ACLU Immigrants' Rights Project (Liman Fellow 2008–2009); Monica Bell (Liman Fellow 2010–2011)



Ashtan Towles (Liman Summer Fellow 2018); Nicola Kirkpatrick, Barnard College '18 (Liman Summer Fellow 2017); and Cindy Xue (Liman Summer Fellow 2016)



Liman publications were on display and distributed throughout the Colloquium, including Arthur Liman's 1972 report on Attica, publications by the Liman Center, and reports and articles by Liman Fellows.



Harold Koh and Melissa Murray, Alexander F. and May T. Morrison Professor of Law, University of California, Berkeley



Judith Resnik and Justice Sotomayor



Dennis Curtis



At a dinner after the Friday Colloquium events, Liman Summer Fellows from past years and the current year performed for an audience of Liman Fellows and Justice Sotomayor. Pictured along with Justice Sotomayor are: Max Goldberg (Liman Summer Fellow 2016); Jaylen Pittman, Yale '19; Ashtan Towles (Liman Summer Fellow 2016); Cindy Xue (Liman Summer Fellow 2016); Brandon Levin (Liman Summer Fellow 2012); Taonga Leslie (Liman Summer Fellow 2015); and Kaiser Ainiwaer, Yale School of Music.

Liman Projects

The Liman Center does research projects on a variety of issues, including the problems faced by women in prison, the disabilities imposed by parole, the practices of solitary confinement, and the creation of debt through interacting with the legal system. Updates on a few aspects of this work are in order.

Four years ago, the Federal Bureau of Prisons announced a decision to close its major facility in the Northeast for women prisoners and to send hundreds of the 1,100 women housed at the federal prison in Danbury, Connecticut, hundreds of miles away from their families, to a prison in Aliceville, Alabama. Reversal of that decision came after the Liman Center helped to coordinate efforts to reverse the decision. Working with the Committee on Women in Prison of the National Association of Women Judges, Liman faculty and students penned op-eds, provided statements to Congress, and offered information that prompted eleven U.S. Senators from the Northeast and twelve chief judges from federal districts in the Northeast to object. In the late fall of 2016, the facility at Danbury reopened to house about one hundred women and to provide programs for women who have substance abuse histories. Liman faculty and students aim once again to be present to understand more about the ways in which women in the federal prison system are housed and the opportunities provided to them.

Another arena of work by the Liman Center is the use of what are called “risk assessment instruments”—increasingly relied on by officials deciding on bail, parole, and probation. Our focus is on how these tools have been used in parole determinations for individuals who committed crimes when they were young and are serving long-term or life sentences. The concern is the mismatch between the questions (for example, about education, families, and jobs) and the facts, when people are in prison for almost all their lives.

Students have also been focused on the law and the rules governing the isolation of animals. When neuroscientists seek to study the effects of environment on mice, they need to be sure that they comply with protocols. Scientific research boards worry about how to keep animals healthy. Our question is how such rules should inform the less-stringent guidelines for isolating people in prisons.

A new project focuses on money: Who pays for what services in the court system? Whether termed “filing fees,” “surcharges,” “costs,” “assessments,” or “fines,” justice system bills add up; debt follows, and for many, the loss of driver’s licenses, jobs,

and sometimes freedom. In addition to targeted research, the Liman Center will devote its weekly spring seminar and its annual Colloquium to the question of who pays, as we think about whether an obligation to fund courts is part of being in a democracy.

Another area of work—understanding the extent and nature of solitary confinement in prisons—has been ongoing for several years. Some of the 2016 findings are described below. In the fall of 2017, the Association of State Correctional Administrators (ASCA) and Liman teamed up again to do new research to update the data.

Tracking Isolation in American Prisons

In recent years, ASCA has joined with the Liman Center to learn about the numbers of people held in-cell for twenty-two hours or more for fifteen days or more. In 2013, we published a report about the rules and policies; in 2015, we published *Time-in-Cell: The ASCA-Liman 2014 National Survey of Administrative Segregation in Prison*, which documented the use of solitary confinement as of the fall of 2014.

In 2016, we published *Aiming to Reduce Time-in-Cell: Reports from Correctional Systems on the Numbers of Prisoners in Restricted Housing and on the Potential of Policy Changes to Bring About Reforms*. This report is the only comprehensive data on the use of solitary confinement in prisons across the country, as well as on efforts across the country to implement policy reforms aimed at reducing the number of people held in isolation.

With fifty-two jurisdictions responding to the survey, and forty-eight providing sufficient information to track the

reported numbers of individuals held in solitary confinement, *Aiming to Reduce* identified more than 66,000 held in isolation in U.S. prisons. A smaller number of jurisdictions tracked the duration of prisoners’ stays; from forty-one jurisdictions accounting for about 54,000 individuals in isolation, some 6,000 people had been held in isolation for three years or more.

The 2016 Report reflects that while solitary confinement was once seen as a critical tool of prison management and as an answer to a problem, prison administrators are increasingly understanding solitary as a problem to be solved—as they establish policies that are aimed at reducing or eliminating the use of isolation. A brief excerpt follows; this lengthy Report

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was researched, written, and edited by Liman students Skylar Albertson, Olevia Boykin, Ali Gifford, Corey Guilmette, Tashiana Hudson, Diana Li, Joseph Meyers, Havi Mirell, and Jessi Purcell, under the guidance of George and Camille Camp of ASCA, and Judith Resnik, Johanna Kalb, Anna VanCleave, Sarah Baumgartel, and Kristen Bell from Liman—all aided by the expert editorial help of Bonnie Posick.

This Report also made national news. Illustrative is *Who's in Solitary Confinement?* by Anna Flagg, Alex Tatusian, and Christie Thompson, in *The Marshall Project* (November 30, 2016); and *The Link Between Race and Solitary Confinement*, by Juleyka Lantigua-Williams, in *The Atlantic* (December 5, 2016). In the winter of 2017, as a result of this Report, Judith Resnik testified in Hartford before the Connecticut Advisory Committee for the U.S. Commission on Civil Rights, which has taken up the question of solitary confinement.

Aiming to Reduce Time-in-Cell: Reports from Correctional Systems on the Numbers of Prisoners in Restricted Housing and on the Potential of Policy Changes to Bring About Reforms (2016)

... Prison systems across the United States separate some prisoners from general population and put them into special housing units, typically with more isolating conditions. The reasons for doing so include the imposition of punishment (“disciplinary segregation”), protection (“protective custody”), and incapacitation (often termed “administrative segregation”)....

A central question is about the numbers of individuals in segregation, regardless of the different names under which the practice goes. Before the 2015 Report, information on the number of prisoners held in restricted housing was a decade old or more; the figure often cited was 25,000. The 2015 ASCA-Liman Report provided new information. What we learned from the 34 jurisdictions answering this question and housing about 73% of the more than 1.5 million people incarcerated in U.S. prisons, was that they reported a total of more than 66,000 people held in restricted housing as of the fall of 2014. Given that number, ASCA and Liman estimated that some 80,000 to 100,000 people were, in 2014, in restricted housing (however termed) in U.S. prisons—or about one in every six or seven prisoners. Those figures, in turn, did not include jails, juvenile facilities, or immigration and military detention.

We also learned that prisoners in many jurisdictions across the country were required to spend 23 hours in their cells on weekdays and in many, 24 hours in their cells on weekends. Jurisdictions reported that cells, sometimes holding two people, ranged in size from 45 to 128 square feet. Opportunities for social contact, such as out-of-cell time for exercise, visits, and

programs, were limited, ranging from three to seven hours a week in many jurisdictions. Phone calls and social visits could be as infrequent as once per month. A few jurisdictions provided more opportunities. In most jurisdictions, prisoners’ access to social contact, programs, exercise, and items kept in their cells, could be cut back as sanctions for misbehavior.

Moreover, administrative segregation generally had no fixed endpoint, and several systems did not keep track of the numbers of continuous days that people remained in isolation. In the 24 jurisdictions reporting on this question, a substantial number indicated that prisoners remained in segregation for more than three years. As to release and reentry, in 30 jurisdictions tracking the numbers in 2013, a total of 4,400 prisoners were released directly from the isolation of administrative segregation to the outside community.

Running administrative segregation units posed many challenges for prison systems. These problems—coupled with a surge of concerns about the negative impact of isolation on individuals—have created incentives for change. Prison directors cited prisoner and staff well-being, pending lawsuits, and costs as reasons to revise their practices. Some also commented that change was important because it was “the right thing to do.”

When releasing *Time-In-Cell*, ASCA stated that “prolonged isolation of individuals in jails and prisons is a grave problem in the United States.” As that press release also explained, “insistence on change comes not only from legislators across the political spectrum, judges, and a host of private sector voices, but also from the directors of correctional systems at both state and federal levels.”... *Time-In-Cell* became front-page news, reflecting the broad concern about these problems and the need for reform....

Looking for Changes: 2015–2016

In early October 2015, ASCA and Liman launched this follow-up study to gather national information on all forms of restricted housing.... The hope was twofold: that the numbers of people held in such settings were diminishing and that the conditions in restricted housing were improving by becoming less isolating.

This study relied again on asking the directors of prison systems to respond to questions. This time, a set of 15 questions focused on the people in any and all forms of what we termed restricted housing (or what is also termed “restrictive” housing). We queried 53 jurisdictions (all the states, the federal system, the District of Columbia, and the Virgin Islands), and 52 responded; the one jurisdiction not providing any information was the State of Maine. As detailed below, a few jurisdictions that did respond did not have answers to all the topics surveyed. For many questions, 48 jurisdictions had sufficiently detailed and

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consistent information on which to report, and for each topic, we specify the number of responding jurisdictions.

We sought to learn about numbers and demographics—including race, gender identity, age, and mental health status. As the data set forth below reflect, those ambitions were made complex by the variety of different facilities under the control of state-wide correctional departments, the many terms used to denote segregating prisoners, the range of data kept, and the limited amount of data available. The jurisdictions surveyed did not all keep comparable data about how many hours, over how many days, prisoners were in their cells.

To enable cross-jurisdictional comparisons, we imposed a definition by describing restricted housing as the separation of prisoners from general population and in detention for 22 hours per day or more, for 15 or more continuous days, in single-cells or in double-cells. This survey did not inquire into whether jurisdictions regularly audited their facilities to learn if the parameters were consistently met. For example, we did not ask about what methods were used to ensure that individual prisoners were out of their cells for the time stipulated in rules, nor did we learn how often or for how long lockdowns occurred during which no prisoners were permitted to leave cells.

Further, if a jurisdiction provided for prisoners to spend 14.5 hours a week out-of-cell, or had no count of whether prisoners were held 15 days or more, that jurisdiction could have described itself as having no one in restricted housing, even as the jurisdiction understood itself to *have* a restricted-housing population. Therefore, and as noted below, in a few instances we included information provided by jurisdictions that required minor modifications of our 22-hour/15-days-or-more definition.

... As of the fall of 2015, 67,442 people were held in restricted housing across the 48 jurisdictions that reported their numbers. Relying on data on the United States and its territories from the Bureau of Justice Statistics, we looked at the total number of individuals confined in the 48 jurisdictions, and learned that these jurisdictions accounted for 96.4% of the total prison population in the United States.

We then calculated the percentage of prisoners who were held in restricted housing across all of the jurisdictions which

regularly kept data on the number of prisoners in restricted housing (22 hours a day/15 days or more). The focus was on state prisoners housed under state (not local) control. The percentages of prisoners held in different jurisdictions in restricted housing ranged from 0.5% (Hawaii, in-state only) to 28.3% (the Virgin Islands). The median was 5.1%.

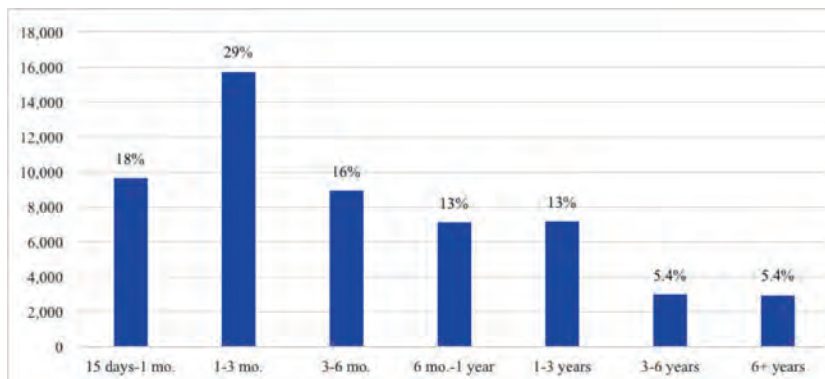
We also asked about the numbers of people held in segregation between 16 and 21 hours per day in their cells. Thirty-four jurisdictions responded about those populations. In 23 of those jurisdictions, we tallied a total of 16,455 additional prisoners in cells for 16 to 21 hours per day for 15 consecutive days or more. In these 23 jurisdictions, the median so confined was 1.6% of their total populations. (Eleven of the responding 34 jurisdictions reported that they did not hold prisoners in-cell for 16–21 hours per day for 15 consecutive days or more.)

Some of the reporting jurisdictions did not include information on all of the facilities directly under their control, and very few included information from county and municipal level facilities at which prisoners or pretrial detainees were held. The dearth of information on county jails is important to underscore because counties were responsible, as of 2016, for 91% of the jails in the United States, and “11.4 million individuals pass through jail each year.” In short, through this survey, we have accounted for *at least* 67,442 individuals in restricted housing (22 hours a day/15 days or more) in the fall of 2015. When adding the 16,455 people confined 16 to 21 hours, a total of at least 83,897 prisoners were held in their cells for more than 16 hours a day for 15 days or more. Yet, given the data limitations, neither of these numbers includes all the people held in-cell for either 16 hours or more or for 22 hours or more in all of the types of U.S. prison and jail facilities.

How long, in months and years, did prisoners spend in restricted housing? Forty-one jurisdictions—holding 54,382 prisoners—provided length-of-stay data. Of those prisoners, 15,725 people—or 29%—were in restricted housing from one month up to three months. Some 15,978 people—or 29%—were in restricted housing for three months up to one year. Another 13,041 prisoners—or 24%—were in restricted housing for a year or more. Of these, 2,976 people—5.5% of 54,382—had spent from three years to six years in restricted housing. Twenty-six jurisdictions reported holding some prisoners—a total of 2,933 people, or 5.4% of the 54,382—in restricted housing for six years or more.

The survey also asked whether correctional systems were making policy-level changes to reduce the use of restricted housing. Forty-five jurisdictions reported on their policies, and many described proposed or recently implemented revisions. Jurisdictions reported policies revising the criteria for being placed in isolation to limit its use, increasing the oversight of restricted housing, expanding efforts at programming and rehabilitative services in restricted housing, developing exit paths (sometimes called

Prisoners in Restricted Housing by Length of Time



“step-down” programs), and imposing caps on the length of time spent in restricted confinement.

In addition to summarizing changes in policies, we provide descriptions of efforts reported by a few jurisdictions seeking to make substantial reductions in the use of restricted housing. We did not inquire into either the details or metrics of implementation, nor did we conduct case studies to learn about the effects, in practice, of the new policies described...

Reflecting on Efforts to Reduce Time-In-Cell

In the course of conducting this research and writing this Report, correctional administrators repeatedly contacted us to discuss their efforts to reduce the numbers of persons confined in restricted housing. In addition, many Directors stressed the efforts to shift from the 22 or more hours in-cell model to forms of restrictions that provided more time out-of-cell. Indeed, as this Report was circulated in draft, system administrators sought us out to explain how the numbers detailed were out of date, for they had succeeded in reducing restricted housing prison populations from the levels described here.

These efforts reflect the profound shift that has occurred in the last few years, since ASCA and Liman began this series of research projects. While once restricted housing was seen as central to prison management, by 2016 many prison directors and organizations such as the American Correctional Association (ACA) and ASCA had defined restricted housing as a practice to use as little as possible for as short a duration as possible. Moreover, the large numbers of people in restricted housing are enduring conditions that are harmful not only to them, but also to staff and the communities to which prisoners will return. Indeed, some prison administrators are “abolitionists,” in the sense that they would—if they could—end solitary confinement and find methods to ensure that no person remain for more than 15 days in 22-in-cell hours continuously.

Yet, as the data in this Report reflect, unraveling the practices of isolation requires sustained work. This Report identified 67,442 prisoners in restricted housing and that number, as

noted at the outset, excludes most jails in the United States. Some 5,909 prisoners in 32 jurisdictions have been kept in-cell for 22 hours a day or more for three years or more.

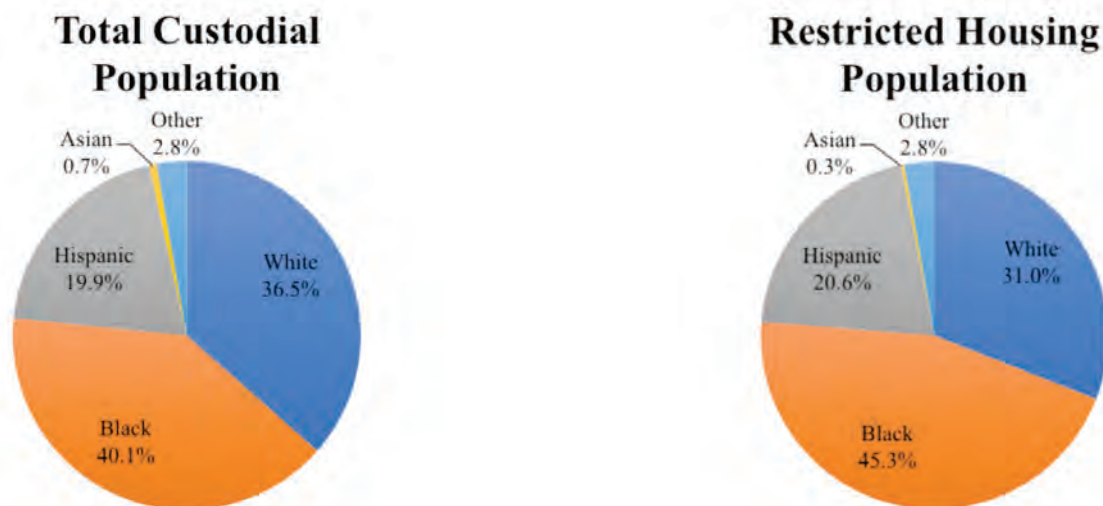
Moreover, a question emerges about why 22 hours or more should be definitional of isolation. The question is whether a move to 21 (rather than 22) hours in-cell responds to alleviate the harms of isolation. Equally important is the length of time a person is subjected to isolating conditions, and how to assess the number of hours in-cell within the context of the length of time confined in that manner. How many hours in continual confinement in a cell for how many days should be seen as impermissible? Moreover, prisoners may be held in their cells for days (if not 15 consecutive days) for 22 hours or more. Further, in many systems, the small amount of time out-of-cell that is permitted is spent in enclosed cubicles, sometimes without any natural light.

In short, neither a shift to 21 hours nor time out-of-cell in very tight spaces responds to the goals—expressed by ASCA, the ACA, among many others—of changing the conditions of confinement in significant ways. Thus, at its core, the issue is whether—as the proposed 2016 Senate solitary confinement reform legislation reflects—the isolation denoted by solitary confinement should be ended. Doing so would reflect that the *separation* of individuals to promote safety and well-being need not be accompanied by *deprivation* of all opportunities for social contact, education, programming, and other activities.

We return as we began—to the larger context. From the inception of this joint work by ASCA and Liman, we have always understood that isolation ought not itself be understood “in isolation.” Restricted housing practices are on a continuum with the placement of prisons in rural settings, far from the homes of many of the prisoners and imposing difficulties in having both able staff and volunteers, as well as regular visits by family members.

As the nation revisits its decades of over-incarceration, it must address restricted housing in the context of prison policies

Male Restricted Housing Population



and criminal justice practices in general. This Report makes plain that correctional leaders in many jurisdictions are reconsidering their own systems, and joining with prisoners, their families, advocates, and members of all branches of government, the academy, and many others—who are seeking to achieve lasting changes in the use of incarceration itself. . . .

De-criminalizing Poverty

Who pays for what when a person is accused of a crime? Or if a fine is imposed for a traffic violation? If a person has resources, the burdens of payment may seem feasible, but for many middle- and lower-income individuals, the fines, fees, and costs of bail, lawyers, experts, and transcripts are overwhelming. Thus the phrase “the criminalization of poverty” has emerged to reflect the many dollars of debt that accumulate as a result of involvement in the criminal justice system. These charges can accrue from the outset of criminal prosecution, when indigent criminal defendants are required to pay fees for their public defenders, all the way through to the conclusion—when individuals are charged for the costs of incarceration or their probation supervision.

Several Liman Fellows have participated in efforts to change these practices, which can be found in many states. The work—which includes intergenerational efforts by Liman Fellows from different decades—ranges from filing lawsuits to creating coalitions, persuading policy-makers to change the rules, and crafting remedies. Below, we sketch some of these activities and excerpt some of the articles that Fellows have written to capture how, in different jurisdictions, the same disabling practices have been put into place, and to bring attention to the need for reform.

Ivy Wang, a 2013 Liman Fellow and currently a staff attorney at the Southern Poverty Law Center in New Orleans, joined her colleagues in filing a class-action lawsuit in the Eastern District of Louisiana to challenge how New Orleans bail bond companies impose fees when defendants are on bail. The complaint alleges that these companies charge criminal defendants for an array

of “services,” from getting connected to ankle monitors to daily monitoring, and tack on fees for undisclosed purposes. The complaint also alleges a host of unsavory and unlawful measures that are used to extort money from defendants and their families.

Current Liman Fellow Rachel Shur is also working in New Orleans, focusing on fees and fines assessed by judges on indigent defendants throughout the prosecution of their cases. She has joined the Orleans Public Defenders in challenging the practice of judges, who routinely order payments without making inquiries into individuals’ ability to pay and who then put indigent defendants in jail for their failure to pay.

Another current Fellow, Jonas Wang, works with Civil Rights Corps, based in Washington, D.C. Wang’s concerns include private probation companies that charge individuals supervision fees they cannot afford and threaten revocation of probation to compel payment. States also revoke driver’s licenses, and Wang is part of a team that filed a class-action lawsuit in the fall of 2017 to challenge the automatic suspension of driver’s licenses in Tennessee when individuals cannot pay fines and fees. That complaint alleges that Tennessee’s suspension of over a quarter-million driver’s licenses for unpaid traffic tickets has taken place without notice and findings of willfulness.

In California, current Liman Fellow Devon Porter has, as she discussed at the Liman Colloquium, worked at the ACLU of Southern California to persuade Los Angeles County not to charge a “registration fee” of \$50 to indigent criminal defendants to be assigned a “free” public defender. The L.A. County Council stopped doing so in 2017 as a result.

In Texas, former Liman Fellows are also at work in stopping fine and fee practices. In *Pay or Stay: The High Cost of Jailing Texans for Fines and Fees*, Rebecca Bernhardt, a 2000 Liman Fellow, and Emily Gerrick, a 2014 Liman Fellow, lay out recommendations to



Judith Resnik, McGregor Smyth (Liman Fellow 2003–2004), and Marjorie Allard (Liman Fellow 2000–2001)



Serena Hoy (Liman Fellow 2001–2002)

eliminate the long-lasting consequences of fines. Emily Gerrick has also teamed up with Andrea Marsh, a 2002 Liman Fellow, to explore the origins of modern debtors' prisons. Bernhardt and Gerrick work together at the Texas Fair Defense Project, where Bernhardt is the Executive Director and Gerrick is a staff attorney. Marsh, who founded the Texas Fair Defense Project, is now a Clinical Lecturer at the University of Texas School of Law and the Director of the Richard & Ginny Mithoff Pro Bono Program there.

Devon Porter

Liman Fellow 2016–2018,
ACLU of Southern California

The increased attention on criminal justice fines and fees in recent years is for good reason: While wages have been stagnant for most Americans, criminal fines and fees have skyrocketed. In California, there are dozens of administrative fees tacked on to criminal and even traffic convictions, ranging from fees to fund the construction of new courthouses to Medivac fees to fund helicopter medical services. For example, a \$100 red light

ticket in California now comes with \$390 in additional fees, for a total of \$490. This increases to \$790 if the person misses the deadline to pay, an amount that can be daunting for people who live paycheck-to-paycheck or who depend on public benefits to survive. Extra fees apply if the person requests a payment plan or community service.

These fines and fees can have devastating impacts on people's lives. One man with whom I worked had successfully completed a job training program through Homeboy Industries, a nonprofit organization that provides job training and support services to formerly incarcerated and formerly gang-involved individuals. The man was trying to turn his life around while struggling to pay off medical debt from a prior hospitalization that occurred when he was uninsured. He had received a traffic ticket and failed to pay the hundreds of dollars owed on the ticket or contest it in court, so his driver's license had been suspended. Even though Homeboy Industries had helped the man become certified as a solar panel installer, he was unable to get a job without a valid driver's license.

*Paying for Justice: The Human Cost of Public Defender Fees**

Devon Porter

Every fan of crime TV shows or movies is familiar with the standard Miranda warning: "You have the right to an attorney. . . . If you cannot afford an attorney, one will be appointed to you by the [government] at no expense." This bedrock constitutional protection for indigent defendants—the right to an attorney at no expense—was first recognized by the Supreme Court in *Gideon v. Wainwright* more than fifty years ago. Yet today in California, a "free" public defense often comes with costs. . . .

Registration fees are part of a growing wave of "user fees" that state and local governments charge to defendants in order to fund cash-strapped court systems and fill budget shortfalls . . . in California and throughout the country. . . . According to a study by the California Research Bureau, the state has steadily increased fines and surcharges and, as of 2006, has developed "over 269 dedicated funding streams for court fines, fees, forfeitures, surcharges and penalty assessments that may be levied on offenders and violators."

. . . According to a Brennan Center report on criminal justice debt in the fifteen states with the largest prison populations, "most of [these states] have increased both the number and dollar value of criminal justice fees, sometimes significantly" in recent years. Unfortunately, criminal justice debt is a

major barrier to successful reentry for individuals involved in the criminal justice system. The same report concluded that "user fees," such as public defender fees, significantly hinder the chances of success for those leaving prison. The report found that "criminal justice debt wreaks havoc on individuals' credit scores, and with it, their housing and employment prospects."

Moreover, registration fees adversely affect not only those convicted of crimes but also those who are never convicted or even tried. Because the fee is assessed even when a person is ultimately acquitted by a jury or when a prosecutor decides to drop the charges, it is also a tax on the falsely accused. In *Nelson v. Colorado*, the United States Supreme Court recently recognized that fees imposed on wrongly convicted individuals can violate a defendant's right to due process under certain circumstances. . . .

Registration fees were initially proposed as a way to raise revenue for underfunded public defenders' offices. . . . In an early report on registration fees, the American Bar Association found that of twenty-eight jurisdictions studied nationwide, "those programs which had data on fee collection rates reported collection rates from six to twenty percent." The report therefore warned that "[a]pplication fees should not be

implemented with the expectation that the revenue they produce will be a panacea for indigent defense underfunding problems."

. . . [S]ome counties have opted to contract with private collections companies, both to collect the fees upfront and to pursue nonpayers whose debt has become delinquent. These private companies then take a percentage of the fees recovered from indigent defendants. In Los Angeles, for example, the county contracts with a private company called GC Services to collect registration fees and other court debt. Under the terms of the GC Services contract with the county, if defendants fail to pay the fee within fifteen days, GC Services refers the debt to its comprehensive collections program. GC Services then uses debt collection methods including "wage and bank account garnishments," referral to the tax authority for garnishment of tax refunds, and the use of skip tracing and DMV record checks "to locate delinquent debtors." . . .

Ultimately, registration fees raise little revenue for the state and local governments while causing severe hardship to defendants and their families.

*Excerpted with permission from the ACLU of Southern California (June 2017)

Other fines and fees can limit use of the courts and cut off access to justice. In California and most other states, public defenders can charge upfront “registration fees” to their clients, who by definition are indigent and unable to afford an attorney. In California, the maximum upfront cost is \$50, which may not seem significant to many people but can be an insurmountable barrier for some, such as the homeless. Once a person’s criminal case is over, judges often order the defendant to pay additional “attorney’s fees,” which can range from hundreds of dollars for a plea bargain up to thousands of dollars if the defendant went to trial.

Part of this growing problem is attributable to state budget deficits and legislators who have realized that they can plug budget gaps by charging additional fees to politically unpopular groups like criminal defendants and the poor. These fees are often styled as “user fees,” with the theory being that the “users” of the traffic courts or the criminal justice system should pay for those systems to function.

But beyond the fact that this conceptualization creates a distinctly regressive system of taxation, it also mischaracterizes and unduly narrows the class of people who are properly considered “users” of the courts. A system of indigent defense does not only benefit individuals caught up in the criminal justice system: Rather, it is an essential function of the state and a part of our adversarial justice system, which should be funded by the broad taxpayer base. The idea of “user fees” becomes especially repugnant when considering that individuals falsely accused of crimes are also considered “users” in this situation who “benefit” from the services of a public defender, even if the case against them is ultimately dismissed or if they are acquitted.

Despite this grim picture, there is reason for hope. After a campaign by the ACLU of Southern California through my Liman Fellowship, the Los Angeles County Board of Supervisors recently rescinded the authority of the Public Defender’s Office to charge an upfront \$50 “registration fee” to indigent criminal defendants. And the state budget recently signed by California’s governor ended the practice of suspending traffic defendants’ driver’s licenses when they failed to pay fines or fees. Hundreds of thousands of Californians currently have suspended driver’s licenses for failing to pay off tickets like the \$790 red light ticket described above. The budget will ensure that future drivers who struggle to pay off these large sums will still be able to drive to work so that they don’t fall further into poverty. Other bills that are pending in the state legislature would provide for reductions in fines of up to eighty percent for people on public benefits. Many of these proposals have bipartisan support, and a broad coalition of activists is engaged in this fight.

In short, though it will be difficult to reduce states’ dependence on income from fines and fees charged to low-income “users” of the court system, advocates are directing significant energy toward the effort. I can only hope that state and local officials will continue to listen.

Jonas Wang **Liman Fellow 2016–2018** **Civil Rights Corps**

My work this year focused on the fight against poverty jailing. I have led intensive, weeklong investigatory trips in a rural county of a southern state to investigate private probation companies. These companies typically gain their profit from money paid by probationers; thus the company “supervising” the probationer has a financial interest in what was traditionally a government function until very recently and one focused on rehabilitation. When people are too poor to pay all the money demanded by the private probation company, the company often has at its disposal legal tools to enforce, counter to basic protections under law, the extraction of payments from probationers.

I sat in court and watched proceedings, interviewed dozens of probationers, collaborated with the local public defender office to obtain files, made records requests for misdemeanor probation files, and closely analyzed the inner workings of the system connecting local governments, for-profit probation, and the poor. I heard stories of desperate efforts to scrounge up more money to pay the fees to private companies. During an interview with a family member of a person on probation, I mentioned offhand that our investigation had unearthed the story of one man who sold his blood plasma to help pay for probation costs. The woman I was speaking to then paused and revealed that her brother has driven to a bordering state to sell his blood plasma. I sat in homes where the heating is carefully rationed. I called to interview people who often did not have money to pay for gas to go to their probation supervision meetings. This is happening all across the country.

I am also my office’s lead person, along with our director of litigation, on collaborative efforts challenging Tennessee’s suspension of driver’s licenses because of inability to pay court debts and other debts. Since 2012, Tennessee has revoked 146,000 driver’s licenses because of unpaid court fines. The loss of a driver’s license locks people in a cycle of poverty: Too poor to pay their court debts or traffic tickets, people have their licenses suspended without inquiry into ability to pay; with their licenses suspended, people cannot drive to look for a job or go to work in public-transportation-poor areas; unable to keep or find a job, people remain too poor to pay back the original debts or afford the potentially hundreds of dollars in driver’s license reinstatement fees; and for driving on suspended licenses, people are additionally ticketed and can even land in jail.

Together with the National Center for Law and Economic Justice, Just City (a Memphis-based nonprofit), and the law firm Baker, Donelson, Bearman, Caldwell & Berkowitz, we have filed a challenge to Tennessee’s provision that automatically revokes, without notice or an opportunity for a hearing on ability to pay, people’s driver’s licenses. I am now the lead staff attorney at my office on this suit.

*Pay or Stay: The High Cost of Jailing Texans for Fines and Fees**

Rebecca Bernhardt

Executive Director, Texas Fair Defense Project
Liman Fellow 2000–2001

Emily Gerrick

Staff Attorney Texas Fair Defense Project
Liman Fellow 2014–2015

Across Texas, local and state leaders are realizing that the use of jail time for fine-only offenses is costly, counterproductive, a threat to public safety and a violation of Texans' fundamental legal rights. For low-income Texans, a ticket for a minor offense like speeding, jaywalking, or having a broken headlight can lead to devastating consequences for the individual, as well as that person's family and community. . . .

Current practices often result in the suspension of, and inability to renew, driver's licenses, as well as the inability to register vehicles. They also result in millions of arrest warrants being issued annually. When people are picked up on a warrant for failure to pay tickets, fines, and fees, they are often booked into jail and made to pay off their debt with jail credit, usually at a rate of \$50 to \$100 a day. These practices are widespread—over 230,000 Texans are unable to renew expired licenses until their fines and fees are paid off, and about one in eight fine-only misdemeanor cases are paid off in whole or in part with jail credit.

Low-income Texans are being set up to fail by the way fines and fees are handled, and they are often driven deeper into poverty. Suspending a person's driver's license makes it illegal to drive to work; issuing an arrest warrant can make it nearly impossible to find employment; and sending that person to jail can lead to the loss of a job and housing. The public's safety is harmed when low-risk people languish in jail. This system hurts Texas families and drains our public resources at great expense to taxpayers.

In many cases, the current system also violates state and federal law. The United States Supreme Court has held that incarcerating somebody because of unpaid fines or fees without a hearing to determine if they are actually able to pay the fines and fees violates the Equal Protection and Due Process clauses of the 14th Amendment. Texas state statute also makes clear that a person cannot be jailed for unpaid fines when the nonpayment was due to indigence.

While some courts feel intense pressure to attempt to increase collection rates by threatening people with incarceration, others have been successful without using jail time as a punishment for failure to pay. Most notably, the San Antonio Municipal Court stopped ordering people to lay out fines in jail in 2007. It found that court revenue did not decrease as a result, nor was there a noticeable change in driver behavior in the city. . . .

The good news is that the Texas Legislature and municipal and justice courts can fix the problems associated with fine-only cases. Modest changes to state law would make huge

strides toward justice for all in fine-only criminal cases. These recommendations have very little, if any, cost to state or local governments, and in some cases would present significant cost savings. They would also empower courts to hold individuals accountable, allowing them to resolve the fines and costs they owe quickly and without the unnecessary use of arrest warrants or jail sentences.

1. End the use of jail commitments for fine-only offenses. Ordering defendants to jail to pay off fines and fees is an unnecessarily harsh, counterproductive punishment that wastes taxpayer dollars and unfairly discriminates against those without the means to pay. Additionally, jailing individuals without the appointment of counsel violates their constitutional rights, exposing city and county officials to liability. . . .
2. Require judges at sentencing to determine a person's ability to pay and to immediately consider alternatives to full payment. Currently, state law does not require judges to inquire about a person's ability to pay fines and fees until they are considering committing someone to jail. If judges determined defendants' ability to pay fines and costs at sentencing and used that knowledge to tailor the defendants' sentences, defendants would not leave court with a fine amount they had no hope of paying. Instead, defendants could receive individualized sentences that they could complete. Additionally, judges should have guidance for determining who has no ability or a limited ability to pay fines and court costs. The Texas Judicial Council has adopted guidelines for the Collection Improvement Program (CIP), a state-run collections program. According to those guidelines, CIP staff must refer a case back to the judge to consider alternative sentencing if:
 - a person's income is at or below 125 percent of the federal poverty guidelines;
 - a person receives income-based government assistance (e.g., food stamps, WIC, Medicaid, etc.); or
 - a person is legally mandated to attend school full-time due to age. The same standard would be appropriate for municipal and justice court judges to use at sentencing to determine who should be presumed unable to pay fines and costs. . . .
3. Expand the ability of courts to resolve fines and costs through community service. Community service should be made more widely available to any defendant who wishes to complete it. Judges should be required to ask at sentencing if defendants want to resolve their fines and fees through community service, and should allow anyone to select this option. Judges should also have broader discretion to order community service anywhere they determine it is appropriate, including local schools, neighborhood-based organizations that are not formal nonprofits, and religious institutions—not just governmental entities and nonprofits, as is currently provided by law. This change would empower judges to allow parents to work at their child's school or work from home, for example, to fulfill their community service obligations. Finally, people

*Excerpted with permission from Texas Appleseed & Texas Fair Defense Project (February 2017)

should be given dollar credit for community service at a rate that sets them up for success rather than failure. Right now, judges are only required to give credit at \$6.25 per hour. A rate of \$20 per hour would be more appropriate, since that is the approximate median hourly income in Texas....

4. Expand the use of waivers and ticket reductions. Indigency waivers are drastically underused in municipal and justice courts. While one in eight cases are satisfied each year by jail credit, fewer than one percent of cases involve a full or partial waiver of fines and costs. Texas law currently allows the waiver of fines and costs only after the defendant defaults in payment. This is a waste of time and resources for the courts, forcing low-income defendants to fail to satisfy the court's initial orders and receive warrants for nonpayment before they can receive sentences that are truly tailored to their circumstances. Furthermore, costs and fees stemming from fine-only offenses should be waived for all indigent defendants. Unlike fines, costs and fees are nonpunitive in nature, and it does not make sense to assess them against indigent people who must take out predatory loans or forgo paying their utilities in order to pay them....
5. Reduce reliance on arrest warrants. Unless a justice or municipal court has already documented an individual's ability to pay, the court should be required to order the person to appear for a hearing before issuing a *capias* pro fine warrant. The notice of the hearing should contain information about available alternatives if the defendant is unable to pay. This additional step, called a show cause hearing, would require that individuals appear before the judge, giving them an opportunity to explain why they haven't paid. This hearing would also give the judge an opportunity to develop an alternative sentence, thereby reducing the number of *capias* warrants issued. . . . Courts should also be safe havens so that people are not afraid to come to court to resolve warrants and unpaid fines. . . . Finally, people who contact the court to resolve their warrants and unpaid fines should be allowed to set a hearing without paying any money. Requiring a defendant to pay before they can see a judge makes it unnecessarily difficult for a person who is trying to comply with the law. Similarly, those people arrested and booked on a fine-only offense who are waiting to see a judge should be released on a personal recognizance bond if they will not see a judge within eight hours. Holding people who pose no public safety risk for long periods of time is a waste of jail resources and a threat to public safety.
6. Eliminate unfair fees. Current law should be clarified to give judges the discretion to waive or reduce fines or fees for anyone who cannot pay the total amount owed at any point in the life of a case....
7. Reduce the number of unlicensed drivers. State law should be changed to reduce the number of people who have invalid licenses and expired registrations. They often accumulate crippling debt because they must drive to work and complete other tasks necessary to survival....
8. Limit private collection agencies. Private collection agencies are currently permitted to collect fines and fees in fine-only cases even when people have not yet seen a judge or even entered a plea. This denies individuals due process

protections they should have in any criminal prosecution. The law should be changed to prevent the collection of any amount in cases where an individual has not yet appeared before a judge. Cases should only be referred to private collection agencies after the court's collection efforts have been exhausted. Private collection agencies should also be prohibited from charging fees of more than five percent of the total amount of debt owed to the court, and should be required to end collection efforts after a certain period of time (e.g., two years). In addition, courts should be prohibited from sharing with private collection agencies the information of people who have no ability to pay. Finally, if a person notifies a collection agency that he is unable to pay the amount owed, the collection agency should be required to end collection attempts and to notify the court....

Why Motive Matters: Designing Effective Policy Responses to Modern Debtors' Prisons*

Emily Gerrick

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Liman Fellow 2014–2015

Andrea Marsh

Clinical Lecturer; Director, Richard & Ginni Mithoff
Pro Bono Program,
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Liman Fellow 2002–2003

The protests in Ferguson, Missouri that followed the shooting death of unarmed Black teenager Michael Brown by a White police officer triggered national scrutiny of the city's justice system. The ensuing media coverage, along with a comprehensive white paper by the ArchCity Defenders and a scathing civil rights report by the U.S. Department of Justice, uncovered a modern-day debtors' prison, the existence of which helped fuel the community response to Brown's death and widespread distrust of law enforcement officials.

Recent attention to how jurisdictions such as Ferguson impose and seek to collect fines and costs for minor offenses has raised public awareness of a truth long known to many criminal justice advocates: Courts across the country routinely jail low-income people who cannot pay in full fines and costs stemming from criminal cases. Most people would agree that debtors' prisons such as these are immoral, and the U.S. Supreme Court has repeatedly condemned many of the practices that produce them. Why then do these practices persist?

So far, our national conversation about modern debtors' prisons has placed the blame for their existence almost exclusively on municipalities' interest in maximizing the revenue generated by their courts on the backs of disenfranchised communities. Revenue generation is a relatively straightforward and easy-to-grasp explanation for what is otherwise confounding, widespread illegality on the

*Excerpted with permission from 34 Yale L. & Pol'y Rev. 93 (2003)



Elizabeth Simpson, MSW candidate, University of North Carolina School of Social Work (Liman Fellow 2010–2011) and Rebecca Bernhardt, Executive Director, Texas Fair Defense Project (Liman Fellow 2000–2001), with several former Liman Fellows, including Stacie Jonas, Lead Attorney, Human Trafficking Project, Texas RioGrande Legal Aid; Alison Hirschel (Liman Fellow 1997–1998); Julia Greenfield (Liman Fellow 1998–1999); and Caitlin Mitchell, Staff Attorney, Youth, Rights & Justice, Portland, OR (Liman Fellow 2013–2015)

part of law enforcement and court officials. This focus on revenue generation has led to policy responses premised on the notion that modern debtors' prisons can be eliminated if the revenue-generation motive is disrupted or controlled.

While acknowledging revenue generation as one strong motive for the practices that produce modern debtors' prisons, this essay argues that it is an incomplete explanation. Incarceration for debt is fiscally irrational in most individual cases, because governments are effectively doubling their losses by adding incarceration and other enforcement costs to accumulated criminal justice debts that can never be collected. The limitations of the revenue-generation motive suggest other factors play a role in sustaining modern debtors' prisons and merit greater attention than they have received.

... [This essay] argues that all motives must be considered if we are to design effective policies to end modern debtors' prisons, and considers the policy implications of a more complex understanding of why debtors' prisons continue to exist across the country. ...

Revenue generation is undeniably a powerful force behind modern debtors' prisons and a relatively easy-to-grasp explanation for why something as anachronistic as debtors' prisons still exists. This is especially true in small jurisdictions that rely heavily on court collections, as well as in jurisdictions that employ private probation companies. However, policy makers and advocates must look beyond revenue generation to effectively combat modern debtors' prisons nationwide. Revenue generation does not fully account for the persistence of debtors' prisons, and in many ways the practices that lead to debtors' prisons are fiscally irrational. Therefore, policies that only target the revenue generation motive cannot by themselves end debtors' prisons. Because of this, we must take seriously the more traditional rationales—as discussed here, public safety, fairness, and personal responsibility—that governments use to take punitive action against people who break the law. It is necessary to view possible reforms with an eye to these motives, even though we recognize that many of

the offenses that land debtors in jail are poverty crimes and that in many instances these rationales for punishment may act as a cover for racism. ...

Immigrants' Rights

This year, many current and former Liman Fellows and students joined faculty and lawyers around the United States in the wake of the federal government's efforts to block the travel of immigrants from seven predominantly Muslim countries and to detain and deport many migrants living in the United States. In January of 2017, Clinical Associate Professor and former Fellow Marisol Orihuela worked with a team of faculty and students in YLS's Worker and Immigrant Rights Advocacy Clinic (WIRAC) to challenge the implementation of an Executive Order issued on January 26th which imposed a travel ban from several predominantly Muslim countries. As various challenges to the January 26 Executive Order and its successor issued on March 6 worked their way through the courts, Sonia Kumar, who was a Liman Fellow in 2009–2011, and Spencer Amdur, Staff Attorney at the Immigrants' Rights Project and Liman Fellow in 2013, were also on the briefs challenging the travel ban. Former Liman Director Hope Metcalf was one of several lawyers submitting an amicus brief on behalf of former national security officials who urged that the executive order could not be justified on national security grounds. Judith Resnik was one of the authors of briefs filed in the Ninth Circuit, the Eastern District of New York, in the Fourth Circuit, and in the United States Supreme Court on behalf of legal experts in constitutional law, federal courts jurisprudence, and immigration. Those filings explained that federal courts had the authority and the duty to review the executive's actions.

The travel ban is only one aspect of the federal government's efforts to halt migration. Liman Fellows have also been working to challenge deportation. Michael Tan, a staff attorney at the ACLU Immigrants' Rights Project and a 2008 Liman Fellow, is pursuing advocacy and litigation on behalf of Dreamers—young immigrants who came to the United States as children—who have had their permission to live and work through the Deferred Action for Childhood Arrivals (DACA) program arbitrarily terminated. Tan is also part of the legal team representing Alejandro Rodriguez in a case currently before the United States Supreme Court on the issue of whether detained immigrants are entitled to bond hearings over their prolonged detention.

In the excerpt below, Nina Rabin discusses the ways in which deportations have cascading effects on the family members, loved ones, and communities of the individuals deported. Rabin was a Senior Liman Fellow in Residence from 2012–2013 and is now a Clinical Professor of Law at the University of Arizona James E. Rogers College of Law. Former Fellow Grace Meng is working with her colleagues at Human Rights Watch to track and tell the stories of individuals who have been deported under the new administration. She describes that project below.

Understanding Secondary Immigration Enforcement: Immigrant Youth and Family Separation in a Border County*

Nina Rabin

Clinical Professor of Law and Director, Bacon Immigration Law and Policy Program, University of Arizona James E. Rogers College of Law

Senior Liman Fellow in Residence 2012–2013

Young people are at the heart of our country's intense debate over immigration policy. Yet the profiles of youth that dominate the public debate are not those . . . whose story is inextricably linked to the other members of [their] family. Instead, the interests and equities of immigrant youth are most commonly addressed in law, policy, and the media as separate and importantly distinguishable from that of their parents. Perhaps the most notable current example of this is the debate over young people, often referred to as "DREAMers," whose parents brought them to this country as small children, and who have received all or most of their education in the United States. Although Congress repeatedly has been unable to pass legislation to address their plight, in 2012 President Obama created Deferred Action for Childhood Arrivals, "DACA," which provides limited temporary relief from deportation for undocumented immigrant youth. The policy and related litigation have generated case law, media accounts, and policy proposals that address this population as distinct from that of their parents.

In addition to DACA, another factor contributing to the common bifurcation between children and parents in immigrant families is the reliance on deportation as the primary measure of the impact and extent of immigration enforcement policies. People on both sides of the immigration debate often frame their policy critiques and proposals in terms of deportation figures. But this focus on individual deportations fails on two fronts to capture the full impact of enforcement.

First, the numbers do not capture the many people in addition to deportees whose lives are fundamentally disrupted by harsh enforcement policies. Importantly, these people are not limited to non-citizens, but include many U.S. citizens and legal permanent residents like Jose, whose family members are subjects of immigration enforcement. Whether family members are left behind or accompany the deported, their lives are irrevocably altered by deportation, yet these impacts are not accounted for in the statistics.

Second, the number of deportations fails to capture the ways in which a harsh enforcement landscape exacerbates other socio-legal conditions—including poverty, crime, cultural and linguistic contexts, family dynamics, and educational aspirations—that shape family decisions about where to live and how to spread risk amongst family members. Enforcement intertwines with these factors to result in

family separations and traumatic relocations even when no deportation occurs.

These cascading impacts of immigration enforcement—which I propose calling "secondary immigration enforcement"—are born heavily by children in immigrant families, many of whom are U.S. citizens and legal permanent residents. This article seeks to render secondary immigration enforcement visible, both in terms of its impacts and how it operates. It is an important moment to consider the full scope of immigration enforcement's impacts, given the plans for significantly increased enforcement policies in the Trump Administration. Even as President Obama implemented DACA, a program specifically aimed to benefit immigrant youth, countless young people's lives were devastated by the secondary effects of his Administration's enforcement policies. Such harms are sure to be even more far-reaching if President Trump implements the policies he has outlined in his initial months.

Secondary immigration enforcement is also a timely contribution to the socio-legal literature on how law operates in immigrant communities. It can be understood as another manifestation of the concept of "legal liminality" that scholars have applied to different sectors of the immigrant community. Cecilia Menjivar originally applied the term in the immigration context to capture the pervasive sense of anxiety and uncertainty created by moving in and out of temporary forms of legal status for many Guatemalan and Salvadoran immigrants.

Since then, numerous other scholars have applied the concept of legal liminality to sub-populations who live at the margins of society, not fully integrated and highly vulnerable, due to immigration laws and policies acting in combination with other structural factors. The young people in mixed-status families who suffer secondary immigration enforcement are prime examples of how the experience of liminal legality extends its reach in immigrant communities without regard to formal legal status.

To document secondary immigration enforcement, over the course of nine months in 2014–2015, I interviewed 38 young people in Pima County, the most populated border county in Arizona, who were living on their own—without either biological parent—at least in part because of immigration enforcement policy. I identified participants in the study by partnering with a nonprofit organization that serves homeless youth in the county. The organization had noted a rising number of young people in the program with deported parents, and agreed to partner in a research project to better understand the needs of this population. Many of the young people who agreed to be interviewed were U.S. citizens or legal permanent residents; others had no legal status or were DACA recipients. What they all shared, regardless of their own legal status, was that their families were fragmented at least in part due to immigration laws. In addition to interviews, I had the study participants fill out a behavioral self-assessment tool designed for use in evaluating adolescents for emotional and behavioral disorders.

*Excerpted with permission from the the *Journal of Law and Education* (forthcoming 2018)

My findings counter the narrative regarding immigrant youth as a distinct population, separable from their parents, and also the focus on deportation as a singular, individualized phenomenon. Instead, the young people I interviewed described immigration enforcement as one of numerous factors that intertwine and escalate to result in family separation. In some young people's experiences, immigration enforcement was a key, disruptive event that led suddenly and directly to family separation. For the majority of interviewees, however, enforcement combined with other factors to result in their family's fragmentation....

The Deported: The Stories of Immigrants Caught in the Trump Crackdown*

Grace Meng

Researcher, U.S. Program, Human Rights Watch
Liman Fellow 2003–2004

An Army veteran and small business owner. A family man who had lived in the US for 20 years. A green card holder who had been a resident of the US since he was three. A young man who has already lost two siblings, unable to return to his family and American life. All have longstanding family and community ties to the US—and all were recently deported.

One of President Trump's central campaign promises was to address the supposed dangers posed by unauthorized immigrants. Since coming into office, his administration has continued to scapegoat immigrants as violent criminals and has ramped up immigration arrests across the US. Even as his administration has claimed to focus on violent criminals, the acting head of Immigration and Customs Enforcement recently threatened all people without legal status, "[You] should look over your shoulder, and you need to be worried." This administration wants to instill fear in all 11 million unauthorized immigrants, and some legal residents as well.

Today, Human Rights Watch is launching a series, *The Deported*, telling the stories of people who have been recently deported or are facing potential deportation since Trump was elected. The stories of these immigrants show what these policies mean in real life, to real people and their families. These first four accounts were told to Human Rights Watch researchers by immigrants who were recently deported to Mexico, a country none had lived in for years.

Trump's deportation policies target unauthorized and legal residents with a range of criminal histories, including those with minor offenses or no records at all. Many have strong family and community ties in the US.

Congress should resist Trump's request for more deportation and detention dollars. In September, members will decide whether to spend billions of taxpayer dollars on a broken immigration system that too often fails to provide fair hearings, including for people seeking protection from persecution; locks people up in dangerous and sometimes even deadly conditions; and prevents judges from even considering an immigrant's years of residence, family ties, and service to this country before ordering deportation.

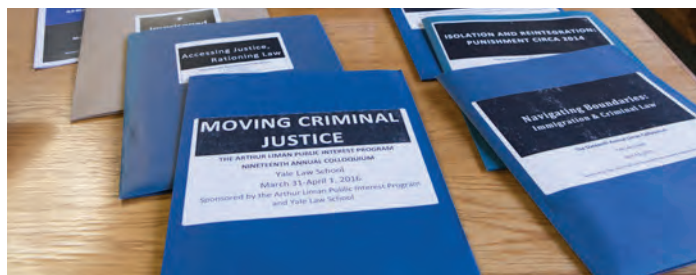
The stories in this series remind us the failures of the US immigration system go beyond this administration. Trump inherited a deportation machine that he wants to put into hyperdrive, built by laws that were hastily passed decades ago. We need more than outrage at the Trump administration. We need a renewed movement and commitment by Congress toward humane and comprehensive immigration reform. ...



A.T. Wall, Director, Rhode Island Department of Corrections, YLS '80; Chesa Boudin, Deputy Public Defender, San Francisco Public Defender Office (Liman Fellow 2012–2013); Kathy Boudin, Co-Director, The Center for Justice, Columbia University, and Adjunct Lecturer at Columbia University School of Social Work



Larry Schwartz (Liman Fellow 2006–2007) and Peter Zimroth, YLS '66, Partner, Arnold & Porter Kaye Scholer and Director, Center on Civil Justice, NYU School of Law



Past Liman materials and publications were on display throughout the twentieth annual Liman Colloquium in the Lillian Goldman Law Library at the Law School.

*Excerpted with permission from Human Rights Watch (June 16, 2017)

Liman Center Updates

Publications by Liman Faculty and Fellows

Liman Fellows and faculty, past and present, have written a number of articles and reports on issues across the public interest spectrum. Below are examples of these publications.

Kristen Bell, Senior Liman Fellow in Residence

A Reparative Approach to Parole Release Decisions, in *RETHINKING PUNISHMENT IN THE ERA OF MASS INCARCERATION* 162 (Chris Suprenant ed., Routledge 2017).

Monica Bell, Liman Fellow 2010–2011

Police Reform & the Dismantling of Legal Estrangement, 126 *YALE LAW JOURNAL* 2054 (2017)

Caitlin Bellis (co-author), Liman Fellow 2015–2017

California's Due Process Crisis: Access to Legal Counsel for Detained Immigrants, California Coalition for Universal Representation (June 2016)

Emily Gerrick, Liman Fellow 2014–2015, and Andrea Marsh, Liman Fellow 2002–2003

Why Motive Matters: Designing Effective Policy Responses to Modern Debtors' Prisons, 34 *YALE LAW & POLICY REVIEW* 93 (2016)

Susan Hazeldean, Liman Fellow 2001–2002

Anchoring More than Babies: Children's Rights After Obergefell v. Hodges, 38 *CARDOZO LAW REVIEW* 1397 (2017)

Tom Jawetz, Liman Fellow 2004–2005

Don't Let the Incoming Trump Administration Fool You on Immigration, ThinkProgress, available at www.thinkprogress.org (January 19, 2017)

Three Ways House Republican Leaders Misled the Supreme Court to Score Political, Not Legal, Points, Medium, available at www.medium.com (April 20, 2016)

Alison Hirschel, Liman Fellow 1997–1998

Seeking Out the Quietest Voices: Advocacy for Vulnerable Older Adults and People with Disabilities, *MANAGEMENT INFORMATION EXCHANGE JOURNAL* (Spring 2016) p. 29.

Allegra McLeod, Liman Fellow 2008–2009

Review Essay, *Beyond the Carceral State*, 95 *TEXAS LAW REVIEW* 651–706 (2017)

Grace Meng, Liman Fellow 2003–2004

The Deported: The Stories of Immigrants Caught in the Trump Crackdown, Human Rights Watch, available at www.hrw.org (June 16, 2017)

California Takes Stand Against Immigration Detention, Human Rights Watch, available at www.hrw.org (June 15, 2017)

Does Anyone Still Believe Marijuana is a Gateway Drug?, Human Rights Watch, available at www.hrw.org (April 19, 2017)

Arizona Mother's Arrest May Signal Start of Trump's Deportation Machine, Human Rights Watch, available at www.hrw.org (February 9, 2017)

The US Supreme Court's Chance to Protect Immigrants' Rights, Human Rights Watch, available at www.hrw.org (November 30, 2016)

How the US Talks about Immigrants and Crime, Human Rights Watch, available at www.hrw.org (October 3, 2016)

Bush Administration Gave US Supreme Court Inaccurate Immigration Data, Human Rights Watch, available at www.hrw.org (August 31, 2016)

How the Justice System Violates Victims' Human Rights, THE LOS ANGELES TIMES (August 4, 2016)

The Shocking Legal Gap for California's Detained Immigrants, Human Rights Watch, available at www.hrw.org (June 8, 2016)

How Punitive US Drug Laws Tear Families Apart, Human Rights Watch, available at www.hrw.org (April 12, 2016)

How the White House Went Easy on Drug Crimes—But Not for Immigrants, POLITICO, available at www.politico.com (April 5, 2016)

Jamelia Morgan, Liman Fellow 2015–2017

Caged In: Solitary Confinement's Devastating Harm on Prisoners with Physical Disabilities, ACLU National Prison Project (2017)

Benjamin Plener Cover, Liman Fellow 2009–2010

Quantifying Political Gerrymandering: An Evaluation of the Efficiency Gap Proposal, 70 *STANFORD LAW REVIEW* ____ (forthcoming 2018).

The First Amendment Right to a Remedy, 50 *UC DAVIS LAW REVIEW* 1741 (2017)

Devon Porter, Liman Fellow 2016–2018

Paying for Justice: The Human Cost of Public Defender Fees, ACLU of Southern California (2017)

Megan Quattlebaum, Liman Fellow 2010–2011, Senior Liman Fellow in Residence 2013–2014

Should Police Wear Body Cameras? Wallet Hub, available at <https://wallethub.com/blog/should-police-wear-body-cameras/25343/#megan-quattlebaum> (October 5, 2016)

Nina Rabin, Senior Liman Fellow in Residence 2012–2013

Understanding Secondary Immigration Enforcement: Immigrant Youth and Family Separation in a Border County, 47 JOURNAL OF LAW AND EDUCATION ____ (forthcoming 2018)

Judith Resnik, Arthur Liman Professor of Law

Bordering by Law: The Migration of Law, Crimes, Sovereignty, and the Mail, in NOMOS LVII: IMMIGRATION, EMIGRATION, AND MIGRATION, at 79–201 (editor, Jack Knight, New York University Press, 2017)

Why Eyes? Cautionary Tales from Law's Blindfolded Justice (with Dennis E. Curtis), in BLINDING AS A SOLUTION TO BIAS IN BIOMEDICAL SCIENCE AND THE COURTS: A MULTIDISCIPLINARY APPROACH, at 227–247 (Aaron Kesselheim and Christopher Robertson, eds., Elsevier Press, 2016)

Lawyers' Ethics Beyond the Vanishing Trial: Unrepresented Claimants, De Facto Aggregations, Arbitration Mandates, and Privatized Processes, 85 FORDHAM LAW REVIEW 1899 (2017)

Accommodations, Discounts, and Displacement: The Variability of Rights as a Norm of Federalism(s), 17 JUS POLITICUM 209 (2017)

Within Its Jurisdiction": Moving Boundaries, People, and the Law of Migration, 160 PROCEEDINGS OF THE AMERICAN PHILOSOPHICAL SOCIETY 117 (2016)

Revising Our "Common Intellectual Heritage": Federal and State Courts in Our Federal System, 91 NOTRE DAME LAW REVIEW 1831 (2016)



Caitlin Mitchell, Staff Attorney, Youth, Rights & Justice, Portland, OR (Liman Fellow 2013–2015) and Larry Schwartzol (Liman Fellow 2006–2007)

Jessica Sager, Liman Fellow 1999–2000

Investing in Childcare is the Holiday Gift We All Need, The Hill, available at thehill.com, (December 25, 2016)

Ivanka Trump Must Speak Out Against Hate Toward Children, TIME (December 6, 2016)

How Irregular Hours Hurt Low-Wage Parents, TIME (October 12, 2016)

The Empathy Gap and How to Fill It, EDUCATION WEEK (October 4, 2016)

We Should Treat Early Childcare Educators as Valued Employees, TIME (September 5, 2016)

Children's Good Health, The Hill, available at thehill.com (August 17, 2016)

Candidates Should Stop Acting Like Children, TIME (March 16, 2016)

Diala Shamas, Liman Fellow 2011–2013

An Urgent Need for International Action on Australia's Refugees, Just Security, available at www.justsecurity.org (June 6, 2017)

McGregor Smyth, Liman Fellow 2003–2004

Social Justice in an Age of Uncertainty, NEW YORK LAW JOURNAL (January 13, 2017)

Jessica Vosburgh (project staff member), Liman Fellow 2014–2015

Shadow Prisons: Immigrant Detention in the South, Southern Poverty Law Center, National Immigration Project of the National Lawyers Guild, Adelante Alabama Worker Center (2016)



Diala Shamas, Staff Attorney, Center for Constitutional Rights (Liman Fellow 2011–2013) and Raquiba Huq (Liman Fellow 2007–2008)

The 2017–2018 Liman Law Fellows, Extensions, and Completed Projects

The Arthur Liman Center for Public Interest Law is delighted to announce the selection of eight new Fellows for 2017–2018 and extensions for four current Fellows. With the incoming class, the Liman Center will have, since its inception in 1997, provided fellowships to 122 Yale Law School graduates.

Celina Aldape joins Law Students in Court in Washington, D.C., where she is representing low-income tenants, often with limited English proficiency, who are at risk of losing their rent-controlled housing. Aldape, who graduated from Columbia University in 2014 and from Yale Law School in 2017, was a participant in the Criminal Justice Clinic, the Landlord/Tenant Legal Services Clinic, and the Liman Project.

Ryan Cooper is spending his fellowship year at the Travis County Mental Health Public Defender, where he represents indigent defendants whose competency to stand trial has been questioned because of their cognitive challenges. He aims to promote alternatives to detention and incarceration for them. Cooper graduated from the University of Texas at Austin in 2010 and from Yale Law School in 2015, where he was the Co-Editor-in-Chief of the *Yale Law & Policy Review*, a student director of the Green Haven Prison Project, a member of the Criminal Justice Clinic, and a participant in the Liman Project. After graduation, he clerked for the Honorable Robert L. Pitman of the U.S. District Court for the Western District of Texas.

Lynsey Gaudio is at Public Advocates in San Francisco for her fellowship year, working with communities to promote affordable housing by improving policies on transportation and by trying to limit the displacement of neighborhoods. A

member of the Yale Law School and the Yale School of Forestry & Environmental Studies classes of 2017, Gaudio was active in the Environmental Protection Clinic, the Community and Economic Development Clinic, and the Native Peacemaking Clinic. She also served as the Diversity and Membership Officer for the *Yale Law Journal*. Prior to law school, Gaudio was a Luce Scholar at the Centre of Live and Learn for Environment and Community in Viet Nam. She graduated from Vanderbilt University in 2010.

Carly Levenson joins Connecticut's Division of Public Defender Services in the New Haven office and its newly formed DNA Unit. Representing indigent criminal defendants whose cases involve the analysis of DNA, she will focus on the quality of such forensic evidence. She is also creating an online database of DNA-related resources for public defenders. Levenson graduated from Amherst College in 2009 and from Yale Law School in 2016, where she worked in the Criminal Justice Clinic, Capital Assistance Project, and Legal Assistance Clinic. After graduation, Levenson clerked for the Honorable Jeffrey Meyer of the U.S. District Court for the District of Connecticut.

Havi Mirell is spending her fellowship year as a policy adviser in the Office of Rhode Island Governor Gina Raimondo and working with A.T. Wall, the Director of the Rhode



More than 70 current and former Liman Fellows were in New Haven in April 2017 to celebrate the twentieth anniversary and the launch of the new Liman Center.

Island Department of Corrections. Mirell is developing and implementing new policies related to the housing of prisoners, their re-entry to communities, and probation. A member of Yale Law School's class of 2016, Mirell participated in the Liman Project and served as an Articles Editor for the *Yale Law Journal*. She graduated from Stanford University in 2012 and then clerked for the Honorable Denise Cote of the U.S. District Court for the Southern District of New York.

Nathan Nash is joining the Lawyers' Committee for Better Housing in Chicago, where he is working to expand the Healthy Housing Chicago Medical-Legal Partnership to protect low-income tenants' rights to safe housing. Nash graduated from Amherst College in 2012 and spent two years working for the U.S. Department of Health and Human Services. He graduated from Yale Law School in 2017, where he was a co-director of two of Yale's Medical-Legal Partnerships, a member of Yale's Mortgage Foreclosure Litigation Clinic, and a student fellow at the Solomon Center for Health Law & Policy.

My Khanh Ngo is spending her fellowship year with the Office of the Alameda County Public Defender in California, where she represents immigrants facing removal as a result of their criminal cases; she is also helping communities respond to immigration enforcement actions. A member of Yale Law School's class of 2017, Ngo participated in the Worker and Immigrant Rights Advocacy Clinic, the International Refugee Assistance Project, the Asylum Seeker Advocacy Project, and the Capital Punishment Clinic. She graduated from Yale College in 2010.

Rachel Shur is working at the Orleans Public Defenders for her fellowship year. Her project aims to challenge the assessment of fines and fees for indigent criminal defendants and to end the incarceration of those too poor to pay their criminal justice debts. Shur graduated from Brown University in 2012 and from Yale Law School in 2017, where she was in the Criminal Justice Clinic and the Capital Punishment Clinic and served as a Co-Director of the Capital Assistance Project.

With the substantial support of the host organizations, the Liman Center has provided extensions to four current Fellows.

Corey Guilmette is continuing his fellowship with the Public Defender Association (PDA) in Seattle, where he has been challenging the discriminatory manner in which anti-trespassing policies are enforced in the Seattle area. Guilmette has worked on expanding and overhauling PDA's Law Enforcement Assisted Diversion Legal Services program, a project designed to divert individuals from criminal prosecution. He has also represented individual clients within this program. Guilmette graduated from Wesleyan University in 2013 and from Yale Law School in 2016, where he was in the Criminal Justice Clinic, the Green Haven Prison Project, and the Liman Project. He was a co-author of the ASCA-Liman 2014 report, *Time-in-Cell*, which provided data on the 80,000–100,000 people in solitary confinement

and the conditions under which they lived.

Devon Porter is spending a second fellowship year with the ACLU of Southern California, working on building a statewide coalition dedicated to reduce the impact of criminal fines and fees on low-income defendants. Porter graduated from Reed College in 2011 and from Yale Law School in 2015, where she worked with the Liman Project on designing a survey of prison systems across the country and co-authoring the 2014 ASCA-Liman Report *Time-in-Cell*, which focused on the conditions and the numbers of people in U.S. prisons in solitary confinement. Before starting her fellowship, Porter clerked for the Honorable Richard A. Paez of the U.S. Court of Appeals for the Ninth Circuit.

Abigail Rich is working with the East Bay Sanctuary Covenant in Berkeley, California, where she supervises lawyers representing refugees who have suffered trauma and develops models for working with clients with histories of trauma. She also coordinates with mental health care facilities that offer treatment for asylum seekers, provides training on trauma-informed representation for clinical students at UC Berkeley School of Law, and represents clients in other immigration matters. A member of the Yale Law School Class of 2016, Rich was in the Immigration Legal Services Clinic, the Worker and Immigrant Rights Advocacy Clinic, the Landlord Tenant Clinic, and the International Refugee Assistance Project. She graduated from Washington University in St. Louis in 2009.

Jonas Wang is continuing work at Civil Rights Corps, based in Washington, D.C., to address the problems of poor people faced with fines and fees in Texas, Louisiana, Alabama, and Tennessee. Wang's second year will be devoted to helping to lead a class action lawsuit challenging Tennessee's automatic suspension of driver's licenses because of individuals' inability to pay court debts. A graduate of Harvard College in 2012 and of Yale Law School in 2016, Wang was in the Veterans Legal Services Clinic and was an Articles Editor of the *Yale Law Journal*.

This year, nine Liman Fellows completed their fellowships at organizations across the country; as the brief details below reflect, their clients ranged from children to migrants, indigent defendants, prisoners, individuals with disabilities, families with housing needs, and workers.

Anna Arkin-Gallagher concluded her fellowship at the Louisiana Center for Children's Rights (LCCR), where she provided civil legal services to young people involved in the New Orleans juvenile justice system and worked to address the educational needs of young people in pretrial detention. Arkin-Gallagher graduated from Yale College in 2004 and from Yale Law School in 2009. Between law school and her Liman Fellowship, she worked in the Civil Action Practice of the Bronx Defenders, where she provided comprehensive civil legal representation for clients in need of assistance with housing, employment, education, and civil rights issues. Arkin-Gallagher now has a position at LCCR as a staff attorney to continue working on civil legal issues for children in the juvenile justice system.

Caitlin Bellis spent a second year at Public Counsel in Los Angeles, where she represented detained immigrants in deportation proceedings and worked with a community coalition to establish a publicly-funded program providing counsel to detained immigrants in the Los Angeles area. Bellis is a 2014 graduate of Yale Law School and a 2010 graduate of Reed College. While in law school, Bellis was a participant in the Worker and Immigrant Rights Advocacy Clinic. Bellis clerked for the Honorable Richard A. Paez of the U.S. Court of Appeals for the Ninth Circuit. Bellis is now continuing her work at Public Counsel as a staff attorney.

Dwayne Betts spent his fellowship year at the New Haven Office of the Public Defender, where he sought to ensure that children charged with crimes were not transferred to the regular criminal court to face prosecution as adults and pressed for reforms in youth sentencing and bail. While a student at Yale Law School, Betts co-directed the Criminal Justice Clinic and the Rebellious Lawyering Conference. He received a BA from the University of Maryland and an MFA from Warren Wilson College's MFA Program for Writers. Betts is the author of *Bastards of the Reagan Era* (2015); *A Question of Freedom: A Memoir of Learning, Survival, and Coming of Age in Prison* (2010); and *Shahid Reads His Own Palm* (2010). Betts is currently a PhD candidate in law at Yale Law School.

Kory DeClark joined the San Francisco Public Defender's Office last year to focus on the over-incarceration of pretrial criminal defendants. He is now an Assistant Federal Public Defender at the Office of the Federal Defender for the Northern District of California. DeClark earned a BA at the University of California, Davis, and a PhD in philosophy at the University of Southern California. His dissertation, *On Being Bound: Law, Authority, and the Politics of Obligation*, focused on the nature of authoritative relationships between states and citizens. DeClark graduated from Yale Law School in 2015. While in law school, DeClark was a student Co-Director of the Criminal Justice Clinic. After graduating, DeClark clerked for the Honorable William A. Fletcher of the U.S. Court of Appeals for the Ninth Circuit.

Jamelia Morgan spent a second fellowship year at the ACLU's National Prison Project, where she worked to limit the use of solitary confinement for prisoners with physical disabilities who are placed in isolation. Morgan graduated from Stanford University in 2006 and from Yale Law School in 2013; she was a member of both the Criminal Defense Clinic and the Detention and Human Rights Clinic. Morgan clerked for the Honorable Richard W. Roberts of the U.S. District Court for the District of Columbia. She is now a staff attorney at the Abolitionist Law Center in Pittsburgh, Pennsylvania.

Freya Pitts completed the second year of her fellowship with Disability Rights Advocates in Berkeley, California. Pitts has focused on expanding access to special education and related services for youth in the juvenile justice system and limiting the use of solitary confinement. Pitts, a member of the Yale Law

School class of 2013, clerked for the Honorable Judith W. Rogers of the U.S. Court of Appeals for the District of Columbia Circuit and for the Honorable Jon. S. Tigar of the U.S. District Court for the Northern District of California. While in law school, she was a member of the Lowenstein International Human Rights Clinic, the Immigration Legal Services Clinic, and the Advocacy for Children and Youth Clinic. She graduated from Yale College in 2008. Pitts is continuing as a staff attorney at Disability Rights Advocates.

Ryan Sakoda finished his second year at the Committee for Public Counsel Services (CPCS), Massachusetts's public defender agency. At CPCS, Sakoda has been working on behalf of individuals in the criminal justice system who are having difficulty keeping or obtaining public and subsidized housing. He has also been doing empirical research on the interaction between the criminal justice system and public housing policies. Sakoda graduated from Yale Law School in 2012 and is a PhD candidate in economics at Harvard. His research focuses on the empirical analysis of crime and criminal justice policy. Prior to law school, Sakoda was a Fulbright Scholar at the London School of Economics and a Peace Corps volunteer in Ukraine. He graduated from the University of California, Berkeley, in 2003. Sakoda is staying on at CPCS as a staff attorney.

Ruth Swift joined the Jefferson County Public Defender's Office in Birmingham, Alabama, in 2015, focusing her fellowship work on advising colleagues and defendants on the immigration consequences of criminal proceedings for non-citizen defendants. While at the Jefferson County Public Defender's Office, Swift trained defenders on the intersection of immigration and criminal law and drafted a training manual in order to ensure that Alabama's growing immigrant population is well-served. While in law school, Swift was a member of the Worker and Immigrant Rights Advocacy Clinic. She graduated from Hastings College in Nebraska in 2012 and from Yale Law School in 2015. Swift is now a deputy public defender at the Grand Junction Regional Office of the Colorado State Public Defender.

Mary Yanik spent a second fellowship year at the New Orleans Workers' Center for Racial Justice, where she provided legal support for guest workers facing an array of problems in the Gulf Coast energy sector. Her work has focused on administrative advocacy, civil litigation, and immigration defense for workers facing retaliation for reporting workplace violations. Yanik graduated from Yale Law School in 2014, where she participated in the Worker and Immigrant Rights Advocacy Clinic. Before law school, Yanik was an organizer for United Students Against Sweatshops. She graduated from the University of Maryland in 2011. After law school, Yanik clerked for the Honorable David F. Hamilton on the U.S. Court of Appeals for the Seventh Circuit. Yanik is continuing as a staff attorney at the New Orleans Workers' Center for Racial Justice.

The 2017 Summer Fellowships

Every year, the Liman Center sponsors summer public interest fellowships for students at Barnard, Brown, Harvard, Princeton, Spelman, Stanford, and Yale. Including this year's cohort of Summer Fellows, more than 400 students have received Liman Summer Fellowships. Below are the 2017 Summer Fellows and their host organizations.



2017 Liman Summer Fellows (from top, clockwise): Steve Gomez, Princeton '19; Eva Branson, Yale '18; Nicola Kirkpatrick, Barnard '18; Ashtan Towles, Yale '18; Sydney Daniels, Yale '19; Ibrahim Bharmal, Stanford '18; Ameerah Ahmad, Harvard '19; Juan Colin, Brown '19; Eisa Al-Shamma, Stanford '18; Jessica Quinter, Princeton '18; Lauren Maunus, Brown '19; Aidea Downie, Brown '18; Malina Simard-Halm, Yale '18; Adam Burton, Yale '18; Kabbas Azhar, Princeton '18; Jasmin Espinoza, Stanford '18; Alice Mar-Abe, Princeton '18; Connie Cheng, Harvard '18; Samantha Doss, Barnard '19; Linda Gordon, Barnard '18; Kataeya Wooten, Barnard '18; Viviana Arroyo, Yale '18; Jun Yan Chua, Yale '18; Rohan Naik, Yale '18; and Priscilla Guo, Harvard '18

One brief excerpt from the report of Summer Fellow, Ashtan Towles (now a third-year undergraduate at Yale College), provides a window into the important contributions that these Fellows make. Towles worked at the program that Jessica Sager founded; Sager was a 1999 Liman Fellow, and her discussion (at the opening of this Report) explained how Sager created the organization at which Towles worked in the summer of 2017.

I will never forget my first day at All Our Kin (AOK), a Connecticut-based nonprofit organization that trains, supports, and sustains family child-care providers to ensure that children and families have the foundation they need to succeed in school and life. In other words, AOK equips primarily low-income women of color with the tools to create and administer their own child-care programs. I did research, data analysis, and participated in sessions with stakeholders of AOK for the eight weeks that I was there.

The moment I walked in, I was greeted by a staff of all women, women of differing backgrounds—women with a die-hard passion for both people and advocacy work. The kindness of the staff at AOK exuded through the rooms and hallways; from them, I learned how significant it is to have a passion for people, while understanding the inner-workings of policy platforms and how they affect them. . . .

The most memorable moment that I had from the summer was at AOK's Annual Conference, which was held at the

University of Bridgeport this year. At the event, I was able to meet child-care providers and hear their stories. While the work that low-income women do as child-care workers is significant as it influences children in their most sensitive years, they fail to receive the proper pay and recognition. Often, people (including policymakers) write off their work as merely "babysitting," but it is so much more than that.

This past summer, I witnessed AOK scramble for funding after Connecticut cut funding for Care4Kids, which is a child-care subsidy program for low-income residents. The present Connecticut budget proposal does not include full funding for Care4Kids, meaning that it will remain closed for the next two years, despite the fact that it is crucial for working-class families to have access to the program (thousands of families are currently on the waitlist). At the conference, I witnessed women singing "Lean On Me" and laughing, and hugging even in the midst of all of this. I will never forget that.

Barnard Kaye-Liman Summer Fellows

Samantha Doss '19, WE ACT For Environmental Justice.
New York, NY
Linda Gordon '18, The Impact Fund. Berkeley, CA
Nicola Kirkpatrick '18, Veterans Legal Clinic. Cambridge, MA
Kataeya Wooten '18, African American Policy Forum.
New York, NY

Brown Liman Summer Fellows

Juan Colin '19, Office of the Governor, State of Rhode Island.
Providence, RI
Aidea Downie '18, New York State Division of Human Rights.
New York, NY
Susannah Howe '18, New York Legal Assistance Group.
New York, NY
Lauren Maunus '19, Environmental Law Institute.
Washington, D.C.

Harvard Liman Summer Fellows

Ameerah Ahmad '19, Council on American Islamic Relations.
Washington, D.C.
Connie Cheng '18, Greater Boston Legal Services. Boston, MA
Priscilla Guo '18, Center for Democracy and Technology.
Washington, D.C.

Princeton Liman Summer Fellows

Kabbas Azhar '18, American Friends Service Committee.
Washington D.C.
Joy Dartey '18, Children's Defense Fund. New York, NY
Steven Gomez '19, Asociación Civil por la Igualdad y Justicia.
Buenos Aires, Argentina
Alice Mar-Abe '18, Public Defender Association. Seattle, WA
Jessica Quinter '18, British Pregnancy Advisory Service.
London, UK



Matt Levine, YLS '04; Megan Quattlebaum (Liman Fellow 2010–2011 and Senior Liman Fellow in Residence 2013–2014); and Sarah Baumgartel, Assistant Federal Defender, Federal Defenders of New York (Senior Liman Fellow in Residence 2015–2016)

Spelman Liman Summer Fellows

Daleesha Cadore, '17, New American Pathways. Atlanta, GA
Aaliyah Channer, '18, The Law and Policy Group, New York, NY
Jillian Lea, '18, Georgia Department of Juvenile Justice.
Atlanta, GA

Stanford Liman Summer Fellows

Eisa Al-Shamma '18, Equal Justice Society. Oakland, CA
Ibrahim Bharmal '18, Council on American-Islamic Relations.
New York, NY
Jasmin Espinosa '18, Georgia Asylum and Immigration Network.
Atlanta, GA

Yale Liman Summer Fellows

Viviana Arroyo '18, Arizona Foundation for Legal Services and Education. Phoenix, AZ
Eva Branson '18, Orleans Public Defenders. New Orleans, LA
Adam Burton '18, Legal Aid Society. Brooklyn, NY
Jun Yan Chua '18, New York County District Attorney's Office.
New York, NY
Sydney Daniels '19, Public Defender's Service, Washington, D.C.
Andrea Fleming '18, MFY Legal Services. New York, NY
Valeria Menendez '18, Kids in Need of Defense. Los Angeles, CA
Rohan Naik '18, ProPublica's Documenting Hate Project.
New York, NY
Malina Simard-Halm '18, Legal Action Center. New York, NY
Ashtan Towles '18, All Our Kin. New Haven, CT



Shelley Sadin, Associate Dean of Professional and Career Development, Quinnipiac University School of Law, and Judith Resnik

Yale Law School Welcomes Two New Faculty Members Who Held Liman Fellowships

This fall, Yale Law School's new cohort of faculty includes two members of the Liman community, Marisol Orihuela and Monica Bell.

Bell comes to the Law School as an Associate Professor of Law. She is particularly interested in the intersection of police regulation and race, family, housing, and social services provision. More generally, her work investigates how institutions shape the lives of the socially marginalized and how those institutions might be more effectively and justly designed. Bell spent her Liman Fellowship year at the Legal Aid Society of the District of Columbia, where she coordinated the organization's efforts to provide structural responses to poverty, with a particular focus on Temporary Assistance for Needy Families and other welfare programs. After her fellowship, Bell received her master's degree in Sociology from Harvard, where she is currently a PhD candidate in Sociology and Social Policy. She was named a Climenko Fellow at Harvard Law School in 2014 and is the author of articles on education, housing, poverty, and policing. Her article, *Police*

Reform & the Dismantling of Legal Estrangement, appears in the May 2017 issue of the *Yale Law Journal* and analyzes how families with limited resources relate to the police. Bell will be teaching Law and Sociology in the spring term.

Orihuela spent her Liman Fellowship year with the ACLU of Southern California, where she represented detained immigrants and developed a media and litigation campaign to address barriers to adequate medical care and access to courts for immigrants. Thereafter, Orihuela continued her work at the ACLU as a staff attorney and then became a Deputy Federal Public Defender at the Office of the Federal Public Defender in Los Angeles, where she represented clients in felony cases and in removal proceedings. She came to the Law School as a Visiting Clinical Associate Professor of Law and Presidential Visiting Professor in 2016. This fall, Orihuela will continue working with the Worker and Immigrant Rights Advocacy Clinic and the Advanced Sentencing Clinic.



Marisol Orihuela, YLS Clinical Associate Professor of Law (Liman Fellow 2008–2009)



Monica Bell, YLS Associate Professor of Law (Liman Fellow 2010–2011)

Remembering Bill Genego, YLS 1975 and Of Counsel to Liman



William J. Genego, known to his friends, clients, and family as Bill, spent his career advocating on behalf of men and women in the criminal justice system and challenging the wrongful convictions of individuals serving life sentences for murder. He was a longtime friend and supporter of the Liman Center, serving as a lawyer when Fellows needed one and providing wise counsel throughout the decades. Bill exemplified the ideals of lawyering in the public interest and working on behalf of the marginalized. After battling cancer for several years while maintaining a remarkable law practice, Bill died on March 8, 2017.

Bill was a 1975 Yale Law School graduate, where he was an Editor of the *Yale Law Journal*. He was a dedicated member of the Jerome N. Frank Legal Services Organization—the LSO that so many Liman Fellows have spent time in, which Denny Curtis and Steve Wizner, with the help of Dan Freed, founded. The year he graduated, he co-authored *Parole Release Decision-Making and the Sentencing Process* with Peter Goldberger, a former law professor who practices law in Philadelphia, and Vicki Jackson, now the Thurgood Marshall Professor of Constitutional Law at Harvard Law School. That article exposed fundamental problems in parole decision-making and made recommendations that helped lead to the creation of the federal sentencing guidelines. Their research and analyses have helped to shape the landscape of federal parole and the article is regularly referred to by scholars in the field today.

In 1975, Bill was named a Prettyman Fellow at Georgetown University Law Center, where he received his LLM degree and

taught clinic students. In 1977, he was a consultant and visiting supervising attorney for the Yale Legal Services Organization before returning to Georgetown as the Deputy Director of the Criminal Justice Clinic. He worked as a trial and appellate litigator in criminal cases at Baker & Fine in Cambridge, MA, before moving to the USC Gould School of Law, where he taught the Post-Conviction Justice Project with Denny Curtis. In 1990, Bill established a law firm focusing on criminal defense appeals and post-conviction cases. He was one of the most prominent criminal defense lawyers in California and has been recognized nationally.

Bill was known for his generosity in providing counsel to friends, colleagues, and strangers in need. He frequently took on clients who were unable to pay him, and without hesitation, he offered his expertise to other lawyers with difficult cases. Judith Resnik, Arthur Liman Professor of Law, said of him: “The rule in my household was if you ever got arrested, you call Bill Genego. He was a mixture of tireless worker, committed, and kind. And when the law failed, he would keep pressing for the law to make good on its promises of justice.”

Bill is survived by a sister and brother, three stepchildren (including Nicolo Nourafchan, YLS class of 2011), their mother and his cherished friend Veronica Gentilli, who is the Chief Operating Office and Head of Business Affairs at the Mark Gordon Company, and four grandchildren. As the Honorable Stephen Reinhardt of the Ninth Circuit Court of Appeals told the *Los Angeles Times*: Bill was “a model of what a lawyer should be: a really good person.”

The Arthur Liman Center for Public Interest Law

Please visit our website at www.law.yale.edu/liman

Learn more about the Liman Fellows, see information about projects and upcoming events, and find details about the fellowship application process.

Public Interest Organizations and Fellowship Applicants

Organizations interested in hosting Liman Law Fellows and individuals wishing to apply for Liman Law Fellowships should contact Liman Director Anna VanCleave. For information about hosting a Liman Summer Fellow or applying for a Liman Summer Fellowship, please contact Anna VanCleave or one of the Liman Faculty Advisors at the coordinating schools listed on this page.

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“Arthur Liman, who graduated in 1957, a year ahead of me, was clearly the leader of his class when I arrived at Yale Law School. I was told he was the model to follow. I did the best I could, but reaching his excellence was really hard. Arthur was truly the greatest.”

—Guido Calabresi, Yale Law School Dean 1985–1994
Sterling Professor Emeritus of Law and Professorial Lecturer in Law

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