This important anniversary finds us at a historic crossroads in the history of Hogan & Hartson. In May 2010, this great firm will join with Lovells to become Hogan Lovells. Both firms cherish proud traditions of pro bono practice, and other service for the public good. With a wider global reach, we can, and will, do more for many people around the world who simply would not have the legal help they need without the volunteer efforts of our lawyers.

Our history of pro bono legal work through the Community Services Department (CSD) provides a strong foundation. I have always known that the CSD undertakes hard battles and wins. Like hundreds of others, I felt the pull of the CSD as a strong force in attracting me to Hogan & Hartson. Yet, as I reviewed the annual reports of my predecessors to identify these “Top 40” CSD matters, I was taken aback by the remarkable achievements of the CSD. The CSD has fearlessly taken on government at the highest levels, provided pro bono legal analysis and fact development on a par with the firm’s most sophisticated commercial work, and persisted for decades when that is what it takes to complete a client matter. The CSD is undaunted by the size, difficulty, or location of a problem. Even if the client is unpopular, if the argument needs to be heard for justice to be done, we have tried to help.

When lawyers at Hogan & Hartson talk about the work for which the firm should be known, CSD matters are always in the conversation: Tulia, Denny’s, the Grand Canyon, Woodland Village, the Legal Services Corporation, the GPO case. Any firm practice would be proud to claim such accomplishments. We have never held back from committing our best lawyers, in their areas of strength, to policy issues that matter.

Yet when I read these pages, and think back over these representations, I am struck by something more personal and closer to home. From the early years in my three decades at the firm, I can recall meetings with CSD clients in which senior partners came prepared, gave the clients their complete attention, and took the clients’ direction as the road forward. By growing up as a lawyer with CSD work, I learned a great deal about listening, and service, and achieving practical results to meet clients’ needs.

I have had the privilege of working with, and being mentored by, every one of the nine outstanding partners who preceded me as the partner in charge of the CSD. Their legacy at this firm is enormous, for they went beyond achieving victories and milestones in their own pro bono work. They enabled and empowered generations of Hogan & Hartson lawyers to expect that their practice life at the firm will include important public service. This report is dedicated to the nine of them with gratitude for their legacy, a long road of service that we are determined to continue.

Patricia A. Brannan
April 2010
Working through the ACLU, Hogan & Hartson attorneys challenged an egregious case of abuse of power that reached all the way to the President of the United States. The firm represented Ernie Fitzgerald, who became known as Washington D.C.’s most famous and tenacious whistleblower.

His story began in 1968. Fitzgerald, then a civilian Air Force analyst, testified before Senator William Proxmire’s Joint Economic Committee, at its request, about a likely $2.3 billion cost overrun in the Air Force’s C-5 cargo aircraft program. When President Nixon took office, Fitzgerald was fired in a supposed “reorganization” in which he was the only employee to lose his job.

On Fitzgerald’s behalf, Hogan & Hartson alleged in a lawsuit against former President Nixon and two of his aides, Bryce Harlow and Alexander Butterfield, that, as a result of his testimony and related communications to the media, Fitzgerald had been gradually stripped of his responsibilities, subjected to a secret investigation of alleged conflicts of interest and security violations, falsely accused of disloyalty by President Nixon’s Secretary of the Air Force in closed testimony on Capitol Hill, and fired. President Nixon was added as a defendant in 1978 based on taped transcripts of a 1973 conversation in the Oval Office in which he recalled ordering aides to “get rid of that son of a bitch.” Other federal government officials were named based on documents showing their plans to terminate Fitzgerald. In one, Butterfield recommended that the administration “let him [Fitzgerald] bleed.”

After document discovery, the court denied the defendants’ motions for summary judgment. This opened the way to a set of depositions that may be as interesting as any ever conducted by the firm. Hogan & Hartson lawyers, led by Barrett Prettyman, deposed Richard Nixon, Bryce Harlow, former Secretary of the Air Force Robert Seamans, H.R. Haldeman, Ron Ziegler, Patrick Buchanan, Melvin Laird, John Ehrlichman, Henry Kissinger, and Alexander Haig.

The viability of Fitzgerald’s claims that his firing violated the First Amendment and federal and common law ultimately rested on questions concerning the immunity of the president, his advisors, and other federal officials. While the Supreme Court found absolute presidential immunity, it held that White House advisors are entitled only to qualified, good faith immunity, and it sent the case back to the lower court for fact findings on liability. The case was settled in 1980 on terms favorable to Fitzgerald. He was reinstated to his federal employment and continued to identify waste and cost overruns until his retirement in 2006.
One of Hogan & Hartson’s first large-impact civil rights cases during the 1970s involved collaboration with the University of Detroit Law School in the representation of the class of African-American citizens who claimed they had been systematically removed from the City of Hamtramck, Michigan, by urban renewal, expressways, and neighborhood deterioration caused by neglect of municipal services.

The firm pursued a federal court case against the City of Hamtramck and the federal department of Housing and Urban Development (HUD), and we successfully demonstrated that the process of removing black citizens from the community was unlawful. The court ordered powerful affirmative relief, which required construction of low- and moderate-income housing and extensive changes in local laws and procedures regarding open housing, industrial zoning, and other housing practices affecting the relocation of black citizens.

The United States Court of Appeals for the Sixth Circuit affirmed the district court’s holding that HUD and the City of Hamtramck had undertaken an unconstitutional program of “Negro removal” through urban renewal activities. The appeals court also confirmed the lower court’s power to issue the extremely far-reaching affirmative relief the firm had obtained. Unfortunately, although almost all of the remedy was approved on appeal, severe economic conditions put the city into receivership and appeared to halt the implementation of the remedy.

Then, in 2008, The Detroit News reported the beginning of a 33-home development, with government funding toward the purchase. Judge Damon J. Keith, Senior Judge on the United States Court of Appeals for the Sixth Circuit, had presided as a federal district court judge over our case decades earlier. Judge Keith spoke at the ribbon-cutting ceremony in 2008, and credited the case with the long-awaited development: “A number of people who started this cannot be here because they are now gone, but their children and grandchildren will be able to enjoy the fruits of this case, which was brought 40 years ago.”

On behalf of the NAACP Prince George’s County Maryland Branch and nine individuals who claimed injury from police misconduct, Hogan & Hartson filed a federal court lawsuit in 1972 alleging racial discrimination and police brutality by the county police department.

During discovery and through various motions, the firm prevailed on numerous issues vital to those seeking relief for this misconduct. The court held that documents concerning police conduct could be reviewed under a protective order and that the question of whether such documents were privileged was covered by federal, not state, law.

Because of an alleged pattern and practice of discrimination, over 900 files concerning complaints of police misconduct were made available for the firm’s review and analysis. The court also rejected the claims of defendants — individual police officers and county leadership — that they were immune from this type of suit, and that the NAACP Branch lacked standing to bring such claims.

During the course of depositions, the county agreed to settle the litigation, essentially providing the relief our clients sought concerning changes in police procedures. New procedures were formally adopted for handling complaints of police brutality, which made the process more accessible and open to public scrutiny, and ensured a hearing before the Human Relations Commission if a complainant was not satisfied with the police department’s response. Additionally, police officers were required to be trained and to wear nameplates so members of the public could better identify them.

The settlement did not end the struggle, however, so Hogan & Hartson returned to court on several occasions to seek assurance that the settlement would be fully implemented. A court decision in 1980 requiring the county’s full compliance with the terms of the settlement concluded years of work toward meaningful change in the accountability of police officers.
In 1973, Hogan & Hartson filed a class action on behalf of black employees at
the Offset Press Section (OPS) of the Government Printing Office (GPO).
The suit alleged racial discrimination by the GPO in denying promotions
and training opportunities for these workers. Although the lowest-ranking
and largest pool of OPS employees was 90 percent black, at the time the suit
was filed, OPS had promoted just one African-American to a supervisor
position in its entire history.

After substantial discovery, proceedings on motions to dismiss, and col-
lateral administrative agency proceedings, the federal district court took the
remarkable step of granting plaintiffs’ motion for summary judgment on
all class claims of liability, based on specific employment statistics and on
defendants’ answers to interrogatories. This was the first class action alleging
employment discrimination to go to judgment on liability against the United
States government. The court granted broad injunctive relief, which the
court of appeals largely affirmed, and required the GPO to meet specified
promotion goals.

However, the remedy proceedings were difficult and protracted. After many
years of negotiations and court proceedings, the parties reached agreement
on most of the injunctive relief provisions. The issue of back pay to class
members was not resolved until 1988, 15 years into the representation.

At the conclusion of the proceedings, Judge Barrington Parker had this to
say about the efforts of Hogan & Hartson and co-counsel from the Institute
for Public Representation and the Washington Lawyers’ Committee for Civil
Rights Under Law:

\[
\text{ACHIEVING JUSTICE FOR FEDERAL}
\text{GOVERNMENT EMPLOYEES WHO ENDURED}
\text{RACIAL DISCRIMINATION}
\]

\[\text{During the early stages of the proceeding, plaintiffs’ counsel ventured upon unchartered legal terrain and recently opened avenues of relief relating to racial discrimination in federal employment. With unusual skill and tenacity, plaintiffs’ counsel helped shape the legal parameters of Title VII class action litigation. At the same time, they achieved for their clients and others, long-denied and long-overdue financial and equitable relief for black employees of the GPO. . . . His Court presided over and has been intimately involved with this litigation for the past fifteen years. And it states without hesitation, that counsel’s efforts were well above the quality of attorneys appearing before this Court in similar and comparable litigation. Indeed, by their performances they have reflected the best spirit of the public interest bar.}\]
With the Lawyers Committee for Civil Rights, Hogan & Hartson represented the West Central Missouri Rural Development Corporation in federal litigation seeking to halt the unlawful dismantlement of the Office of Economic Opportunity (OEO). West Central Missouri Rural Development Corporation, a community action agency, brought the action on behalf of itself and all 930 community action agencies funded by OEO under the Economic Opportunity Act of 1964.

President Nixon, in his budget message for 1974, planned to transfer responsibility for certain OEO functions to other agencies, with no budget request for continuation of the existing programs. In fiscal year 1973, those programs provided $329 million to state and local organizations for reducing poverty and its causes. The OEO programs were a fundamental component of the federal War on Poverty of the Johnson Administration. Community action agencies had engaged in a wide range of activities, such as providing health care and job training. Pursuant to President Nixon’s budget message, OEO instructed the community action agencies that were receiving funding to phase out of their activities.

After highly accelerated discovery, the federal district court in the District of Columbia halted the dismantlement of the OEO. The court agreed that the OEO could not refuse to spend funds that the U.S. Congress had appropriated specifically for its programs and rejected the proposition that the president has “veto power” over programs funded by Congress. As a result, the court ordered that the abolition of the OEO was unauthorized by law and the OEO was saved.

During the Ford Administration, the OEO was replaced by the Community Service Administration.

In 1975, Hogan & Hartson agreed to represent a couple in the District of Columbia who wished to retain custody of a foster child who had been in their custody and care for nearly two years — since the child was five weeks old. When the D.C. Department of Human Resources removed the child from the family’s care with no notice or explanation, the firm filed a motion to intervene in the proceeding under which the foster care placement was supervised. After emergency legal proceedings, custody of the child was returned to the foster parents, and the firm assisted them in adopting the child.

This case appears to be the first example in the District of Columbia in which foster parents were permitted to intervene to avoid disrupting the bond created through the foster parent-child relationship, and to adopt their foster child. The case cast doubt on the validity of a general policy then held by the Department of Human Resources, which discouraged adoption by foster parents.

That policy has since been discarded, and successful foster family placements are a significant source of stable, permanent homes for children. Approximately 90 percent of District of Columbia adoptions now are foster parent adoptions, providing children who might otherwise lack a permanent stable home with an additional opportunity to become part of a caring family.
In 1975, the firm agreed to represent the Fund for Animals to require the Department of Interior to protect certain endangered wildlife species pursuant to the Endangered Species Act of 1973. At that time, 16 months after passage of the Endangered Species Act, the Department of Interior had not placed one additional species on its Endangered Species List.

Hogan & Hartson requested that the Secretary of Interior add 175 endangered species to the Endangered Species List because they were listed as endangered in an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which had been ratified by the United States. Congress passed the Endangered Species Act of 1973 following that ratification. The Department of Interior agreed to begin the process of considering all 175 of these species for listing, which makes it illegal to trade, capture, destroy, or possess these species or any of their parts.

During the rulemaking, the firm assisted the Fund for Animals in assembling scientific evidence to support the endangered status, which resulted in a three-volume submission of detailed scientific evidence regarding the status of 136 species. The submission launched the first process by which the Department of the Interior considered endangered species for listing. Today, 409 animal species are listed as endangered in the United States.

In later years, the firm continued to undertake pro bono work to protect animals and their habitat, including:

- Representing Defenders of Wildlife to change the federal government’s assessment of the environmental impact of its predator-control program on federal lands, which reduced its lethal effects on wildlife.

- Intervention in litigation, for the Environmental Defense Fund, to defend a federal regulation requiring that shrimp fishing nets incorporate devices to minimize the capture and death of sea turtles.

- Litigation for Defenders of Wildlife to fight the Environmental Protection Agency’s proposal to lift a ban on Compound 1080, a poison used to kill coyotes, which also is fatal to other wildlife.

In 1975, CSD took on one of its largest single projects, which involved extensive legal assistance to the then-new Legal Services Corporation (LSC). The LSC was established by the U.S. Congress, but it operates as a private nonprofit corporation with the mission of promoting equal access to justice for low-income Americans.

Today the LSC is the single largest provider of legal aid for the disadvantaged in the United States. LSC-funded programs close nearly one million cases per year nationwide and provide other legal assistance to more than five million people.

Hogan & Hartson drafted the LSC’s initial incorporation documents and bylaws, and ultimately became interim counsel to the LSC during its formation period.

The firm’s services included obtaining the corporation’s tax exemption, assisting in obtaining its first appropriations from the U.S. Congress, drafting its initial regulations and Freedom of Information Act guidelines, and seeking authorization for the LSC to conduct business within the 10 states where it had regional offices. The work covered various practice areas, including the negotiation of a collective-bargaining agreement, drafting a lease for the LSC’s headquarters, and a myriad of other employment and contract issues.

The work came to Hogan & Hartson through the National Legal Aid and Defender Association, which wanted to assure that the LSC’s governance would permit it to become a vital and effective program in support of civil legal services.
Through a representation of the Mexican American Legal Defense and Educational Fund (MALDEF), the firm was instrumental in an effort to have parts of the Southwest included within the coverage of the Voting Rights Act of 1965.

A vital provision of the Voting Rights Act subjects to close federal review and scrutiny all of the voting practices and procedures of certain “covered” states and political subdivisions. No “covered” state or political subdivision can make any change in its laws relating to “voter qualifications or prerequisite to vote, or standard, practice or procedure with respect to voting” without first obtaining the permission of either the U.S. Attorney General or a three-judge district court in the District of Columbia. This requirement was designed to prevent changes that would deny or abridge the right to vote based on race or color.

The initial covered jurisdictions under the act were primarily in the South. MALDEF raised the concern that voters of Mexican heritage in Texas, Arizona, New Mexico, California, and Colorado were subjected to the same kinds of discriminatory election practices and procedures that characterized the South in the 1960s, which led to the enactment of the Voting Rights Act. MALDEF asked the firm to assist it in an effort to have those states and political subdivisions with large concentrations of Latino voters covered by the Voting Rights Act.

After a detailed analysis of voting statistics, as well as reviewing U.S. Civil Rights Commission files showing serious abuses directed at Latino voters, the firm filed a petition asking the U.S. Attorney General to consider covering voting districts in the Southwest states. Firm lawyers argued that an English-only election in a district where more than five percent of the eligible voters do not speak English is a “test or device” within the meaning of the Act.

For six intensive months, the firm provided extensive assistance to MALDEF in the ongoing legislative effort by preparing draft legislation, helping witnesses with hearing testimony, and giving legal and technical assistance to key staffers in the U.S. House of Representatives and the U.S. Senate.

This effort culminated on August 5, 1975, when President Gerald Ford signed the Voting Rights Act of 1975, which extended the original act for seven years and incorporated the proposition that the pre-clearance provisions of Section 5 should apply not only where a state utilized literacy tests but also where it held English-language elections in areas having substantial numbers of non-English-speaking voters. As a result, Texas became subject to the pre-clearance provisions of Section 5, and bilingual elections were required in a significant number of other jurisdictions.

In 1992, the firm once again assisted MALDEF in reauthorization of the Act.
In 1976, the firm filed suit against Internal Revenue Service (IRS) and U.S. Treasury officials on behalf of the parents of black school children in desegregating public school districts. The complaint sought a halt to granting tax-exempt status to racially discriminatory private schools formed or expanded at the time of public school desegregation. The suit, *Wright v. Allen*, was a companion to *Green v. Connally*, an action by the parents of black public school children in Mississippi, in which the defendants were prevented from granting or continuing tax-exempt status to Mississippi private schools that discriminated based on race. The principal relief sought by the plaintiffs in *Wright* was the relief obtained by the *Green* plaintiffs with respect to Mississippi schools.

The district court granted motions to dismiss, and the court of appeals reversed. The U.S. Supreme Court reviewed the question whether our clients had standing to challenge the tax status of the private schools. Hogan & Hartson contended that black school children attending desegregating public schools have standing to complain of tangible government aid in the form of tax exemptions to racially discriminatory private schools formed or expanded in their communities upon the initiation of public school desegregation because such government aid infringes their personal right to equal educational opportunity.

While the Supreme Court, in a 5-3 decision, held that our clients did not have standing because any injury caused by the “mere fact” of government financial aid to discriminatory private schools does not constitute judicially cognizable injury, the firm’s work in *Wright* played an important part in establishing the substantive legal principle that racially discriminatory schools are not entitled to federal tax-exempt status.

In a separate case involving whether Bob Jones University was entitled to federal tax-exempt status, the United States advised the Supreme Court, after the court granted a review of the *Wright* case, that it was in the process of restoring tax-exempt status to Bob Jones University and was taking steps “to revoke forthwith” Revenue Rulings requiring the denial of tax-exempt status to racially discriminatory schools.

With the Lawyers’ Committee for Civil Rights Under Law, we were able to obtain an order to protect the status quo in *Wright*, directing that tax-exempt status not be granted or restored to any school that unlawfully discriminates on the basis of race. Thereafter, the United States backed down, and determined not to grant or restore tax-exempt status to Bob Jones or to revoke the pertinent Revenue Rulings.

Subsequently, the firm filed information in the Bob Jones case that demonstrated the importance, relative to achieving effective desegregation, of denying tax-exempt status to racially discriminatory schools. The Supreme Court held in *Bob Jones* that racially discriminatory schools are not entitled to tax-exempt status.
One of the longest-running efforts in the history of the firm’s CSD was the struggle for school desegregation in Prince George’s County, Maryland. Hogan & Hartson’s work over decades for the NAACP Branch in Prince George’s County followed the arc of evolving law on school desegregation. It resulted in 14 published district court and court of appeals decisions, along with three denials of review by the United States Supreme Court. Here are some of the highlights:

- In 1980, we agreed to represent the NAACP and the Prince George’s County Branch in an effort to prevent resegregation on the basis of race and to seek further desegregation in the Prince George’s County schools. Although the school district had been ordered to desegregate in 1972, the NAACP believed that had never really happened. After a thorough investigation, the firm filed a new complaint on behalf of the NAACP and a motion to reopen the case on behalf of the original plaintiff class of black schoolchildren.

- A trial was held in 1982 on various issues concerning whether the school system was fully desegregated, as well as whether more recent conduct from the school board constituted intentional segregation. In a 232-page opinion, the court ruled in our favor on key issues. The federal court resumed active jurisdiction and ruled that the system had not attained full desegregated status and that the defendants had violated the court’s desegregation order.

- The school board appealed, and we cross-appealed on the issues of racial disparities in programs for special education and the talented and gifted, on which the trial court had ruled against the plaintiffs. The United States Court of Appeals for the Fourth Circuit ruled in our favor on all of these issues.

- Following further proceedings in the district court, the school board agreed to implement a comprehensive plan to achieve full desegregated status, including new magnet schools, compensatory programs, higher quality educational facilities, and smaller class sizes in the racially isolated schools.

- Hogan & Hartson returned to federal court at the end of the 1980s to defend the school board’s faculty desegregation policies, which had been challenged by third parties as inconsistent with the rights of white teachers under Title VII of the Civil Rights Act. The district court and court of appeals agreed with our clients, in a leading case holding that the constitutional duty to assign teachers on the basis of race in order to desegregate schools is not a violation of statutory rights of white teachers.

- In 1996, the school board, without prior court approval, announced that it intended to admit students to magnet schools outside of the racial enrollment guidelines previously approved by the court. The firm’s objections prompted the court to rule that advance approval was required and that an analysis of the status of the remedy was due.

- As a result, the parties filed cross-motions for full desegregated status (the school board) and for further relief (NAACP). The court considered the motions at an evidentiary hearing over the course of four weeks in 1997. With help from the court, the parties were able to arrive at a memorandum of understanding, which was approved by the court after a fairness hearing. The court continued supervision of implementation of the memorandum of understanding, and declared the school district fully desegregated in 2002, 22 years after the firm began its effort.
In the early 1980s, the firm was again called upon to help ensure that the Legal Services Corporation (LSC) would continue to be effective in funding legal services for those in need.

The Legal Services Corporation Act of 1974, which created the LSC, provided for governance by an 11-member board of directors “appointed by the President, by and with the advice and consent of the Senate.” In December 1981 and January 1982, while the U.S. Congress was in recess, President Reagan named replacements for the directors who were governing the LSC when he took office.

The directors who were scheduled to be replaced took action. They believed that directors of the LSC were not “officers of the United States” and were not subject to the President’s recess-appointment power under Article II, Section 2, Clause 3, of the U.S. Constitution. They also believed some of the recess appointees could not be confirmed by the U.S. Senate because of a history of opposition to the provision of legal services to the poor. The directors who were to be replaced asked the firm to seek a declaration that the recess appointments were invalid and to prevent any actions by the recess appointees concerning the LSC.

The firm brought a lawsuit in federal court in the District of Columbia, which gave Congress time to keep the recess appointees from acting with respect to the LSC. While we challenged the refusal of the trial court to grant preliminary relief, Congress limited the authority of the recess appointees by continuing resolution. The Senate finally approved a slate of properly nominated directors, which made the case no longer necessary.

On the night of November 1, 1982, eight young men entered the grounds of Shaare Tefila Synagogue in Silver Spring, Maryland, and desecrated the building with anti-Semitic slogans, including swastikas, burning crosses, and obscene references to the Holocaust. The perpetrators were caught, prosecuted, and given light sanctions within the criminal system in Maryland.

The synagogue’s congregation sought assistance in filing a civil rights action against them, to make the larger point that hateful desecration of property causes deeper injury than a simple destruction of property. The firm, at the request of the Jewish Advocacy Center, filed a class action in March 1984 in the United States District Court for the District of Maryland under the federal civil rights acts, 42 U.S.C. §§ 1981, 1982 and 1985(3), and for violations of Maryland common law.

Both the district court and the United States Court of Appeals for the Fourth Circuit held that the federal civil rights acts did not apply because the men’s criminal actions were not motivated by “racial animus” because Jews are not a separate race. The firm argued that the perception by the defendants that their victims were racially distinct, which was amply demonstrated by what they wrote on the congregation’s place of worship, was sufficient.

The congregation’s petition for certiorari was granted, and Hogan & Hartson argued the case before the United States Supreme Court. In a unanimous opinion, the court reversed the lower court’s decision, relying on its ruling in a companion case (St. Francis College v. Al Khazragi) that, at the time the civil rights statutes were passed after the Civil War, the U.S. Congress intended to protect Jews and other such groups, even though today it is recognized that they are not considered racially distinct.

After the Supreme Court ruling, the case was settled. Leaders from the congregation held a face-to-face meeting with the perpetrators. The congregation’s leaders in the meeting included Holocaust survivors and others deeply affected by the desecration. They were able to explain to the perpetrators the deep injury inflicted when such hateful words were used to violate a place of worship.
In 1984, Hogan & Hartson assisted the Migrant Legal Action Program (MLAP), which had acted as counsel for El Congreso, an organization of migrant workers, and individual workers in pending litigation against the Secretary of Labor. The plaintiffs sought to compel the Occupational Safety and Health Administration (OSHA) to adopt a field-sanitation standard in accordance with the timeline to which it had agreed. A field-sanitation standard would require agricultural employers to provide basic toilet facilities, hand-washing water, and drinking water to workers in the field. Overwhelming scientific evidence supported the conclusion that a lack of such facilities contributed to a high incidence of parasitic and infectious diseases among migrant workers. The life expectancy for a male migrant worker in the United States was only 49 years at the time.

After considerable procedural and discovery issues in federal court in the District of Columbia, Hogan & Hartson filed a new petition seeking review of OSHA's decision not to adopt a standard, which it argued was the “final action” satisfying its agreement. Briefing and argument in the United States Court of Appeals resulted in a victory and a forceful opinion:

The rulemaking record demonstrates beyond dispute that lack of drinking water and toilets causes the spread of contagion, bladder disease, and heat-prostration among farmworkers. Yet resistance to issuing the standard . . . has been intractable . . . . With our decision today ordering the field sanitation rule to issue, we hope to bring to an end this disgraceful chapter of legal neglect.

This representation echoed a 1970s project in which firm lawyers petitioned for relief, in the form of adequate payments for meals and transportation, for thousands of Puerto Rican workers who picked tobacco in the United States. In the 1980s, the firm also represented 71 domestic farmworkers in employment claims against the largest industrial fruit grower in Maryland, which we successfully settled. After a highly publicized trial in Baltimore, the firm also succeeded in winning relief in 1993 for 15 women from Mexico who worked as migrant workers in a Maryland crab picking plant under conditions that violated civil rights and wage and hour laws.
In a case that attacked systemic racial discrimination of a sort almost hard to believe in the 1980s, Hogan & Hartson represented the African-American citizens of Woodland Village in Charles County, Maryland, in their quest to have basic water, sewer, and recreational services provided in their community.

Woodland Village was created by the federal government in 1941 as a segregated community for black workers at the Indian Head Naval Ordnance Station. When Woodland Village came to the firm for help in 1982, it was still a nearly all-black community of about 500 citizens in 83 homes. The community operated its own water system, because Charles County refused to do so, and it lacked operational fire hydrants and local recreational facilities. This meant, for example, that unlicensed individuals in the community tested and treated the drinking water because no governmental entity would take jurisdiction over the water system. Additionally, Woodland Village had been denied annexation by the nearly all-white City of Indian Head, although it stood in the path of Indian Head’s annexation efforts.

Through discrimination complaints with the federal departments of Housing and Urban Development (HUD) and the Environmental Protection Agency (EPA), the firm succeeded in convincing the EPA to require Indian Head to take over and improve the Woodland Village sewer system. We also obtained a HUD grant through which Charles County rehabilitated and took over the water system. As the result of a complaint with the Maryland Human Relations Commission, Charles County also provided a park in the community. Finally, in tandem with the United States Department of Justice, Hogan & Hartson filed a Voting Rights Act case challenging Indian Head’s refusal to annex Woodland Village. The case was settled with Indian Head’s agreement to the annexation.

In 1989, the firm filed a lawsuit on behalf of the National Union of the Homeless seeking an order that the federal government be required under the McKinney Act to turn over for housing for the homeless the only federal property in Northern Virginia eligible for that use. Although during preliminary proceedings the court upheld the continued use of the property as a parking lot for the Department of the Navy, it criticized the government’s treatment of the homeless applicant for the property as “unconscionable.” The court opined that the General Services Administration (GSA) “should communicate with homeless providers in an open and frank manner, not with the evasiveness and deceit that has characterized the disposition” of the property in this case.

Through that litigation, and the firm’s continuing efforts to obtain property for use by the homeless, the General Services Administration, pursuant to its statutory mandate under the McKinney Act, made available 35 acres of excess federal property at Fort Meade in Maryland for use as transitional housing. GSA’s assignment of the property was made despite opposition of local political leaders. To complete the transaction, the firm negotiated the terms of the lease with the federal government.
In 1987, the firm was asked by the Washington Lawyers Committee for Civil Rights and Urban Affairs to study discrimination by taxi drivers who bypassed people of color trying to hail cabs in Washington, D.C. This launched a long series of projects and representations designed to change the behavior of cab drivers who passed by black passengers to pick up white passengers.

Ultimately, substantial relief was negotiated from taxicab companies that initially claimed they had no responsibility for the quick decisions drivers made about which prospective passengers to carry.

Working with the Lawyers’ Committee and the Department of Psychology at Howard University, Hogan & Hartson initially designed a testing project to confirm the anecdotal evidence of taxicab discrimination. This led to a federal civil rights action against three taxicab companies for discrimination against black patrons. On the eve of trial, the court approved an extensive and innovative consent decree under which the three companies agreed to establish complaint procedures, discipline drivers who engaged in discrimination, fund a city-wide testing program, and petition for city-wide training concerning racial discrimination.

But the firm did not stop there. Hogan & Hartson’s advocacy on behalf of black taxicab passengers resulted in changing public policy. Working with the Lawyers’ Committee, the firm prepared a study of the problem and developed proposals for solutions. As a result, firm lawyers have testified before the D.C. Council on the issue, and even collaborated with the Metropolitan Police Department on sting operations.

The firm continued the fight with a lawsuit on behalf of two African-American lawyers, at other law firms, who were bypassed by taxicabs, in favor of white passengers, in Northwest Washington. Ultimately, the firm won $10,000 in damages for each client, as well as injunctive relief in an additional lawsuit. For more than 20 years after this initial work, the firm continued to represent individual clients in discrimination proceedings against cab drivers and companies before the D.C. Taxicab Commission and the D.C. Office of Human Rights.
In 1988, a black male broke into the home of a white university student in a small town in West Virginia and sexually assaulted her. Several weeks later, police arrested Wilbert T.

Despite the victim never identifying him as the assailant, and Mr. T.’s wife testifying that he was home the entire night of the assault with her and their two baby boys, the state tried Mr. T. The prosecution’s case was based on a crude testing of a semen stain left at the scene and on some suspect fingerprint evidence.

After a mixed-race jury acquitted Mr. T. of sexual assault and convicted him of burglary, the judge threw out both verdicts because he did not “understand” them. A year later, a second mixed-race jury convicted Mr. T. of burglary but it was hung on the sexual assault charge. Undaunted, the state tried Mr. T. for a third time. This time, Mr. T. was convicted of sexual assault by an all-white jury and incarcerated.

After his conviction, a statewide investigation disclosed that the state policeman in charge of the police serology lab that did the testing in Mr. T.’s case had repeatedly fabricated proof against defendants and lied under oath. As a result, the West Virginia Supreme Court determined that the misconduct was so egregious any testing involving the officer would be deemed “invalid, unreliable, and inadmissible.” The court then reopened hundreds of convictions, including Mr. T.’s.

When the remaining serology evidence from his case was retested by an independent laboratory, it concluded that Mr. T. could not be the source of the DNA sample taken from the victim shortly after the rape. Based on this favorable DNA evidence, other favorable evidence and the paucity of the state’s “proof,” Mr. T. sought habeas corpus relief in state court. However, the state courts refused to release him despite an evidentiary hearing that included a policeman admitting that his sworn trial testimony regarding performing a certain serological test, which linked Mr. T. to the crime, was a lie.

To end Mr. T.’s 12 years of wrongful imprisonment, the firm then filed a petition for habeas relief in federal court. After a magistrate judge recommended the petition be granted, finding among other violations that the state’s witness who presented serological evidence at Mr. T.’s trial testified falsely, West Virginia’s Supreme Court of Appeals issued an order reopening the investigation into wrongdoing at the Serology Division.

While the petition for habeas corpus relief in federal court was pending, the firm successfully obtained Mr. T’s release in 1999, years before his anticipated release date. The state did not concede Mr. T’s innocence. Instead, it accepted the firm’s argument that the state was constitutionally required to apply the “good time” statute in effect when Mr. T was convicted, under which he had served his term.

Upon learning that West Virginia intended to release Mr. T, the county prosecutor who had obtained the original conviction filed an unprecedented lawsuit against his own state. He demanded that the court prevent Mr. T’s release. However, the firm convinced the court to dismiss the prosecutor’s action, and Mr. T was finally a free man.
In 1989, Hogan & Hartson succeeded, after presenting evidence at trial, in stopping power contracts pending an environmental impact statement on the cumulative effects of dam operations on the erosion of beaches and on endangered species in the Grand Canyon National Park. The work was on behalf of the National Wildlife Federation, the Grand Canyon Trust, Western Rivers Guide Association, and American Rivers, Inc.

The firm’s advocacy laid the groundwork for the Grand Canyon Protection Act of 1992. A detailed technical presentation to the Environmental Protection Agency (EPA), including testimony by firm partner Paul Rogers, led to a settlement in 1991 that included the first-ever agreement by the federal government to protect visibility in a federal park. The settlement mandated a significant reduction in sulfur emissions from a power generating station to reduce haze in the park. President George H.W. Bush called the settlement a “milestone in our implementation of the Clean Air Act and in our efforts to protect one of America’s crown jewel national parks,” and he traveled to the Grand Canyon for the signing ceremony. The firm then successfully defended, in federal court litigation, the EPA regulations that implemented the settlement.

The firm also has represented the Grand Canyon Trust, the Sierra Club, The Wilderness Society, the National Parks Conservation Association, and other regional environmental groups seeking to restore “natural quiet” to the Grand Canyon in accordance with the requirements of the National Park Overflights Act of 1987. The firm has participated in rulemaking and litigation ever since, in an ongoing effort to require the federal government to mandate true natural quiet in the park.

Fighting to maintain the original intent of laws protecting national parks

The firm’s work to protect the treasures of the National Parks System has long extended beyond the Grand Canyon. Often working closely with the National Parks Conservation Association (NPCA), the firm has undertaken numerous other projects to preserve and enhance the parks in accordance with the original intent of the legislation protecting them.

- Firm lawyers assisted the NPCA in the late 1970s in its efforts to halt the damage to Mammoth Cave National Park in Kentucky by a supposedly temporary job corps center in the heart of the park. Two days after the firm filed a lawsuit, the Director of the Park Service announced plans to move the job corps center to new permanent facilities on the periphery of the park.

- When a 2003 Interior Department agreement threatened to divert the flow of the Gunnison River through Black Canyon of the Gunnison National Park to build subdivisions, highways, and shopping malls, an environmental coalition led by the NPCA turned to us for assistance. After three years of hard-fought litigation, the court blocked the federal government from giving away the park’s water rights in the Gunnison River, holding that the National Park Service has a responsibility to preserve water rights reserved to its parks. During nine months of negotiations involving more than 60 parties, Hogan & Hartson then negotiated a historic settlement protecting water flows and enhancing conservation and recreation in the park. The firm did the work on behalf of seven conservation groups, including the NPCA, Wilderness Society, High Country Citizens Alliance, Environmental Defense Fund, Trout Unlimited, West Slope Resource Council, and the Western Colorado Congress.

- In 2009, Hogan & Hartson succeeded in preventing the implementation of a regulation permitting concealed-carry handguns in the national parks and wildlife refuges. The evidence showed that the National Park Service and Department of the Interior had failed to conduct an environmental review, as required by law, and had ignored the evidence in the rule-making record concerning likely environmental harms. While the U.S. Congress since has legislated on handguns in the parks, the case stands for the proposition that agency action concerning handguns must be considered for potential environmental impact.

- The firm also assisted NPCA in administrative agency or legislative processes to protect resources at Big Bend National Park, Glacier Bay National Park, National Petrified Forest, Dry Tortugas National Park, and the Florida Keys Marine Sanctuary. We successfully litigated a case involving the Niobrara National Scenic River in Nebraska, and established the principle that the Secretary of the Interior cannot cede management authority of the national park to a local council.
In order to stop a pattern of racial profiling, Hogan & Hartson pursued various actions against the Maryland State Police regarding the disproportionately high number of traffic stops of African-American drivers, as compared to drivers of other races.

The work began in the 1990s, but extended for more than a decade. With the ACLU, the firm filed a federal lawsuit in Maryland in 1993 on behalf of an African-American public defender and his family who were stopped, detained, and subjected to a search by a drug-sniffing dog. The case included class-action allegations that the Maryland State Police and other law enforcement officials used a race-based drug courier profile that resulted in violations of the Fourth, Sixth and Fourteenth Amendments to the U.S. Constitution and Maryland law. The case settled with money damages to our named clients and an agreement that the Maryland State Police would cease making roadside car searches based on racial profiles.

Complaints of such searches continued, however, so Hogan & Hartson stayed involved. At the request of the national and Maryland ACLU, the firm returned to federal court as co-counsel for a group of African-American drivers who had been subjected to intrusive traffic stops on I-95 in Maryland. Extensive discovery supported concerns that a pattern and practice of racial profiling in traffic stops on I-95 still prevailed.

On the eve of trial in 2008, a landmark settlement was reached. It included damages and legal costs for our clients. Most important, it required the Maryland State Police to retain a jointly approved independent police practices consultant to assess how the state police implemented policy and practice changes concerning racial profiling and to identify continuing deficiencies in training and implementation of race-neutral policies. The consultant’s recommendations cannot be rejected without reasonable cause.
One of the firm’s historic pro bono priorities has been assuring that people of all races have access to public accommodations, including restaurants and hotels open to all travelers and residents.

In 1993 — on the same day Denny’s and the Civil Rights Division of the United States Department of Justice filed a consent decree in a California federal district court purporting to end discriminatory treatment of African-American customers in Denny’s restaurants — a group of African-American Secret Service officers assigned to President Clinton accompanied him on a visit to the Naval Academy at Annapolis. The trip included a stop at Denny’s for the Secret Service officers. The six African-American officers, seated together, were unable to get service at a Denny’s restaurant, while their white counterparts ordered and ate a meal. After an hour of waiting and polite inquiries, the African-American agents left without eating.

The Washington Lawyers Committee for Civil Rights and Urban Affairs sued in federal court on behalf of the six African-American agents involved in the Annapolis incident. The Lawyers Committee asked Hogan & Hartson to join the case as nationwide class counsel when the incident prompted many other reports of discriminatory treatment in Denny’s restaurants around the country.

After extensive discovery and investigation, the case produced the largest and most comprehensive settlement of a public accommodation case in history. The firm assisted with claims administration, fund management, and injunction oversight for years in order to bring the benefits of the settlement to the members of the class.

In one of the most prominent cases in the modern history of human rights enforcement in Central America, Hogan & Hartson, along with the Lawyers Committee for Human Rights (now Human Rights First), represented the sister of Guatemalan anthropologist Myrna Mack. Ms. Mack had been an outspoken critic of the destruction of rural indigenous communities by the Guatemalan military’s counterinsurgency tactics during Guatemala’s long armed conflict. As a result of her position, Ms. Mack was stalked by a death squad for two weeks and then killed on a Guatemala City street in 1990. Hogan & Hartson took legal action to hold high-level government officials accountable for her death.

The firm presented the case before the Inter-American Court of Human Rights in Costa Rica and obtained a unanimous ruling in 2003 that the State of Guatemala had violated its obligations to the Mack family under the American Convention on Human Rights. The court then awarded precedent-setting reparations, which required Guatemala, among other things, to issue a public acknowledgment and apology for its violations of the rights of Myrna Mack and her next of kin; to establish an effective investigation into the violation of the rights of the Mack family, with the results to be made public; to remove all forms of immunity protecting those individuals implicated in Myrna Mack’s death; and to pay the Macks more than $700,000 — the largest monetary award in the court’s history.

In April 2004, the President of Guatemala, in a public ceremony, acknowledged the government’s role in the murder of Myrna Mack. Additionally, the family of a detective killed for investigating Myrna Mack’s murder received a medal of honor, and Guatemala paid the reparations ordered by the court.
In 2001, Hogan & Hartson won a unanimous United States Supreme Court decision protecting Missouri candidates and voters from state requirements mandating that ballots for members of the congressional delegation favor candidates who take a particular position.

Missouri voters adopted an amendment to Article VIII of their State Constitution, which instructed each member of Missouri’s congressional delegation “to use all of his or her delegated powers to pass the Congressional Term Limits Amendment.” The amendment also directed the Missouri Secretary of State to determine whether a statement reflecting a candidate’s position on term limits should be placed by his or her name on the general election ballot. The provision quickly became known as the “Scarlet Letter” law.

A non-incumbent House of Representatives candidate brought suit to prohibit implementation of the amendment. Hogan & Hartson was asked to become co-counsel when the Supreme Court granted certiorari to review the court of appeals decision striking down the amendment. The Supreme Court agreed unanimously with the firm’s advocacy and agreed that the Scarlet Letter law was designed to favor candidates showing support for a term-limits amendment, in violation of the Elections Clause of the United States Constitution.

In 2001, Hogan & Hartson responded to a request by the United States District Court for the District of Columbia asking members of the D.C. Bar to represent individual African-American farmers seeking to participate in a class-action discrimination settlement reached with the United States Department of Agriculture (USDA) in Pigford v. Glickman.

Pigford was the largest civil rights case in history. To date, almost $1 billion has been paid or credited to African-American farmers under the Pigford settlement.

The case alleged racial discrimination in the allocation of farm loans and assistance by the USDA between 1983 and 1997. The United States agreed to pay African-American farmers $50,000 each if they had attempted to get USDA help but failed. Farmers could also present evidence to support claims for greater damages.

Hogan & Hartson coordinated and monitored the pro bono efforts of 13 law firms to bring direct legal help to more than 400 African-American farmers who had potential individual claims resulting from the settlement. The firm also represented nearly 50 individual class members in submitting their claims, or in seeking reexamination of claims rejected by the court’s monitor.
One of Hogan & Hartson’s major efforts to vindicate the rights of individuals who have suffered racial discrimination involved the wrongful convictions of African Americans in Tulia, Texas.

In 1999, nearly 10 percent of the African-American population of Tulia, Texas, was arrested in a single day in a sting operation instigated on the word of a single white undercover officer. The firm worked with the NAACP Legal Defense and Educational Fund, Inc. (LDF) to investigate and present evidence of the racism and dishonesty underlying the criminal prosecutions of these individuals. The presentation led to an action from the Texas Legislature, which resulted in the release of the Tulia residents who remained in prison, and the granting of full pardons by the governor to those who had been convicted.

The firm, along with LDF and local counsel, then filed a federal civil rights lawsuit on behalf of two African-American women who had been accused of selling drugs to the undercover officer, even though neither was in Texas at the time. A settlement in the Tulia civil case was accomplished in 2004. It is believed to be the largest civil rights settlement in West Texas history, and it provided relief to more than 40 people directly harmed by the racially motivated arrests.

However, the firm’s work was not done. Because of a unique Texas procedure, under which the criminal records of our Tulia clients were not automatically expunged when they were pardoned, the firm worked with LDF and the clients to have their criminal records cleared. We moved for expunction of the criminal records of our innocent clients and the recusal of the judge who had sentenced them to long prison sentences. Over the objection of the trial judge, the judge appointed to handle the recusal motion found cause for recusal and removed the trial judge. Our clients’ expunction motions were granted and their criminal records expunged.

Hogan & Hartson was awarded the 2004 John Minor Wisdom Public Interest and Professionalism Award from the American Bar Association’s Section of Litigation for its work on the Tulia case.
Since the inauguration of President Ellen Johnson-Sirleaf as Africa's first democratically elected woman president in January 2006, Hogan & Hartson, through the International Senior Lawyers Project (ISLP), has worked with her toward Liberia's restoration after its long civil war. One of President Johnson-Sirleaf’s steps to rebuild the foundations for economic growth included a review of the most important mining and agricultural long-term concession agreements signed by the prior regime.

Hogan & Hartson, together with other ISLP lawyers and experts, first participated in that review and then helped with the renegotiation of the country’s two most significant concession agreements. This resulted in substantially increasing the economic and social returns to the government from these contracts. The firm also assisted the government in the review and renegotiation of other significant agricultural contracts and in the negotiation of new concession agreements for the largest new investments in the mining and agricultural sectors. In conjunction with that work, our lawyers advised and commented on tax, investment, and other policies affecting these vital sectors.

Firm lawyers also advised on a number of other agreements, including a 25-year power purchase agreement for a 35-megawatt biomass power project and associated transmission lines, which is the first independent power project in Liberia. When completed, the project will triple the installed generating capacity in the country. In addition, Hogan & Hartson advised the Ministry of Health & Social Welfare on establishing its general counsel’s office, and in the development of regulations concerning various aspects of the Liberian health care system.

Hogan & Hartson’s work for the Ministry of Health and with the government in the important agricultural and mineral sectors is ongoing.

On August 6, 2009, Virginia Governor Timothy Kaine announced the conditional pardon of Derek Tice, who was convicted of a 1997 rape and murder that evidence, including DNA evidence, overwhelmingly showed he did not commit. Mr. Tice, serving two life sentences without the possibility of parole, walked out of a Virginia prison that day after spending more than a decade behind bars. Hogan & Hartson, two other major law firms, and the Mid-Atlantic Innocence Project agreed to represent Mr. Tice and two other former Navy seamen all imprisoned for the same crime. Together with a fourth Navy man, convicted of rape, who had been released from prison, they became known as the “Norfolk 4.”

The clemency petition that Hogan & Hartson filed for Mr. Tice sought his release from prison and a full pardon, citing DNA evidence that indisputably linked another man, also convicted, to the crime. No physical evidence tied Mr. Tice or others in the Norfolk 4 to the crime. No DNA from the four men was found anywhere at the scene. The DNA evidence recovered at the scene matched only that of the other man convicted of this crime. He had a history of violent assaults against women and was serving another sentence for a separate attack on a young woman that occurred within weeks of this crime.

The firm also filed a habeas corpus petition on Mr. Tice’s behalf in the Virginia state system, and supported that petition with testimonial evidence at a contested evidentiary hearing. Among the witnesses was the only man linked to the crime by DNA evidence, who testified under oath that he committed the crime alone and that Mr. Tice was innocent. After a trial victory on the state habeas petition was reversed by the Virginia Supreme Court, the firm filed a petition for habeas corpus in federal court in Virginia. That petition was granted in September 2009, on grounds that Mr. Tice’s trial counsel was ineffective in his failure to challenge a confession made after Mr. Tice invoked his right to remain silent. The firm continues to defend the habeas ruling on appeal, and to work toward having Mr. Tice’s name cleared.
SUPPORTING 9/11 VICTIMS’ FAMILIES

A large team of New York-based Hogan & Hartson lawyers helped families of police officers, firefighters, and others who were killed at the World Trade Center on September 11, 2001. The firm assisted with applications to the Victims Compensation Fund, probate work, and property transfers. We also helped Squad Company Number One of the New York Fire Department, which lost 11 firefighters in the attacks, with establishing and administering a relief fund for donations.

Families of those lost on September 11 were assisted in other Hogan & Hartson offices as well, with petitions for declarations of death, resolution of issues relating to estates, and establishment of organizations to create long-term financial support for families.

ASSISTING HURRICANE KATRINA VICTIMS

Within days of the devastation of Hurricane Katrina, Hogan & Hartson’s Washington, D.C. office organized the city’s legal services response for the evacuees who were sheltered temporarily in the area. The firm managed as much of the organization as possible so already-busy legal services providers would not be burdened with the additional needs of hurricane evacuees. Hogan & Hartson lawyers consistently worked the “first day” of each stage of the project, which included direct assistance to evacuees at the D.C. Armory and later at D.C. General Hospital, as well as answering evacuee hotline calls. Lawyers in firm offices across the United States also took training sessions to enable them to assist evacuees who were housed temporarily in their jurisdictions.

In a project characteristic of the warm relationships among our international offices, Hogan & Hartson Raue in Germany, along with the Chamber of Commerce of Berlin, started a program called Berlin Gibt Zurück (Berlin Gives Something Back) to help children devastated by Hurricane Katrina. The Berlin Gives Something Back project raised funds for children’s organizations affected by Katrina, with help from Berlin’s business and sports communities and the Order of St. John.

PLANNING TO HELP IN FUTURE EMERGENCIES

The firm drew on its Hurricane Katrina experiences as the basis for an extensive project with the Washington Legal Clinic for the Homeless and the D.C. Bar to prepare a Disaster Assistance Manual. The manual explains the laws most relevant to the problems that individuals, especially those already vulnerable due to poverty or age, would likely face if the Washington, D.C. area suffered a disaster. In the hope that it will never be needed, the manual is available for circulation and use by legal volunteers if populations in the city are displaced or suffer serious damages.
Hogan & Hartson lawyers, working with the ACLU, the ACLU of Texas, and Refugio del Rio Grande, Inc., reached a landmark agreement in 2009 to resolve a federal court lawsuit in Texas. The lawsuit challenged the U.S. government’s treatment of U.S. passport applications filed by Mexican-Americans.

The court case charged that the Department of State (DOS) violated the constitutional rights of nearly all midwife-delivered U.S. citizens living in Texas and along the U.S.-Mexico border by requiring them to provide abnormally excessive documents when applying for a passport. Even when applicants succeeded in supplying the extra documents, the DOS would abandon or otherwise close their applications without explanation.

As a result of the approved settlement, the DOS agreed to new procedures intended to ensure the fair and timely review of U.S. passport applications by Texas-born applicants whose births were attended by midwives. Those who previously filed an application for a passport between specified dates over five years and, with a few exceptions, whose application was not expressly “denied,” can reapply without charge. DOS also agreed to educate its staff on how to handle such passport applications properly. It further agreed to review and revise regularly its list of birth attendants and midwives suspected of misstating the place of birth on birth certificates to better ensure that those on the list are included based on reasonable and lawful suspicion.

This landmark agreement, approved by the federal court, is expected to provide greater fairness and transparency to the practices for issuing passports to American citizens of Mexican descent.
DETERMINING THE DEPTH OF THE PROBLEM

In 2005, Hogan & Hartson, along with the DC Appleseed Center, published the groundbreaking report *HIV/AIDS in the Nation’s Capital*, which described the issues and shortcomings in the District of Columbia government’s response to the HIV/AIDS epidemic. Hogan & Hartson contributed more than 4,000 hours during a two-year period to the research and writing of the report. It was based on approximately 150 individual interviews, several focus groups, and stakeholder and expert panels, as well as review of thousands of documents and vetting of report drafts with a wide range of interested individuals and organizations, including D.C. government officials.

The report gained extensive press and public attention, resulting in elevated concern about this life-threatening virus, which is estimated to affect one in 20 District residents. Most important, the District of Columbia government began to act on the report’s specific recommendations.

The firm continues to counsel and assist DC Appleseed in efforts to help improve the District of Columbia’s response to the local HIV/AIDS crisis by issuing “report cards” evaluating progress in the implementation of the report’s recommendations. Other work has included successful efforts to clear the congressional obstacles to a needle exchange program in the District, and a benchmarking study on best practices in HIV/AIDS prevention, especially for women, African-Americans, and Latinos.

REACHING OUT TO HELP VICTIMS AT ALL LEVELS

Hogan & Hartson’s pro bono commitment to fight the HIV/AIDS epidemic has been worldwide and deep. For example, the firm:

- Successfully argued, through a Maryland federal court appointment in the late 1980s, on behalf of HIV-positive inmates in Maryland prisons that quarantine would be an unconstitutional and unjustified step to protect against the spread of the virus.

- Collaborated, through the International Senior Lawyers Project, to assemble materials on international legal protections for those with HIV to be used by advocates convened for a conference in India in 2005. Hogan & Hartson offices around the world were involved in this effort.

- Helped many HIV-positive individuals with legal issues presented by their health status, including applicants for Social Security disability and other benefits. This work included representing a law enforcement specialist in the Air Force who was placed on disability for no reason other than his HIV status, and scores of individuals who needed estate planning help.

- Advocated, with the National Association of People with AIDS, against the “Dornan Amendment,” which would have barred anyone who is HIV-positive from serving in the United States military.

- Produced, through the American Bar Association AIDS Coordinating Committee, a white paper on AIDS issues to be considered by the Clinton Administration.

- Worked with CSD partners and clients on a wide range of legal matters for many organizations with the mission of assisting those who live with HIV/AIDS. These included the Whitman Walker Legal Clinic, Moveable Feast, The Washington AIDS Partnership of the Washington Regional Association of Grantmakers, Food & Friends, the Foundation for Hospices in Sub-Saharan Africa, and Transatlantic Partners Against AIDS.
During the 40-year history of Hogan & Hartson’s Community Services Department, we have strived to provide excellent representation for individual low-income clients on issues of vital importance to them. The lives of hundreds of clients have been changed by our success in winning benefits, a damages judgment, or an order requiring improvement in their housing conditions. The lives of hundreds of Hogan & Hartson lawyers have been enriched by the privilege of knowing and advocating for these members of our communities. Examples of these matters are many, including:

• The firm won more than $15,000 in a jury verdict in 1984 for a widow recovering her husband’s life savings, which had been fraudulently withdrawn from a bank account by a neighbor.

• In 1991, the CSD provided investigative and litigation assistance to a bankruptcy trustee seeking to locate and recover assets for 3,000 Latino immigrants. The group collectively lost more than $6 million — including the life savings of some individuals — when the pseudo-banking entity in which they had invested went bankrupt due to fraud and mismanagement.

• During the 1990s, the firm undertook an extensive litigation with Neighborhood Legal Services for disabled general public assistance recipients whose benefits were terminated without a pre-termination hearing.

• In 1993, the firm stepped in on behalf of an elderly woman convinced to pledge her home as security for a home repair loan with terms so onerous that repayment was impossible. The firm’s CSD notified the lender that it could be subject to truth-in-lending, usury and other claims, resulting in the lender substantially reducing the loan’s interest rate, lengthening the term of the note, cancelling points and fees, and making an $8,000 payout.

• When Washington, D.C.-based associates, who were representing individuals trying to gain or keep shelter housing operated by the District of Columbia, realized there was a systemic lack of legal standards for shelter operations, they worked for years, through the Washington Legal Clinic for the Homeless and the homeless community, to craft a solution. Their advocacy resulted in the Homeless Services Reform Act of 2005.

• Through Friends of Karen, firm lawyers have provided legal assistance on housing, employment, and other issues to critically ill children’s families struggling to manage medical care, as well as the emotional and financial trauma of that diagnosis. In 2005, for example, Hogan & Hartson represented a family in eviction proceedings. Their financial distress was caused by attending to the needs of a child who died of a rare form of lymphoma.
Hogan & Hartson’s immigration-related pro bono work has ranged from representation of individuals from around the globe to policy work on issues that affect thousands. Here are some examples of our work:

• In *Gorbach v. Reno*, the firm challenged the power of the United States Attorney General to adopt new rules allowing her to reopen and revoke an order of naturalization, on grounds of claimed false statements, without going to court. Beginning in 1997, as a result of the new rule, thousands of people naturalized and legally living in the United States were notified that their naturalization was being considered for revocation. The trial court blocked the action, through a preliminary injunction, which was reversed by the United States Court of Appeals for the Ninth Circuit. Then the Ninth Circuit’s heard the case *en banc* and reinstated the nationwide injunction in 2000. The court said the regulation lacked statutory authority: “For the Attorney General to gain the terrible power to take citizenship away without going to court, she needs Congress to say so,” according to the court.

• In *Seretse-Khama v. Ashcroft*, we obtained relief for a Liberian national who had been detained by the Immigration and Naturalization Service (INS) for nearly four years while awaiting removal to Liberia. The court harshly criticized the INS for failing to comply with the United States Supreme Court’s 2001 decision in *Zadvydas v. Davis*, which declared the INS’s practice of indefinitely detaining aliens unlawful.

Over the decades we have represented scores of clients in their quest for safe refuge in a place where they can build a new life. From Chinese students, to translators for U.S. and Coalition Forces during military operations in Iraq and Afghanistan, to dozens of victims of violence and intimidation because of their political advocacy or religious beliefs, we have been proud to help our clients remain in a new country they can call home.
Hogan & Hartson attorneys have answered the call to provide representation for inmates on death row who are challenging their criminal convictions or sentences.

The firm has represented John Ferguson since the early 1980s. Mr. Ferguson was convicted, after two Florida state court trials, on eight counts of murder. He was sentenced to death after each of these trials. Neither of the two judges nor the two juries heard the substantial mitigating evidence about his childhood of abuse and deprivation and the extensive history of his mental illness and inability to know right from wrong. In fact, the judge and jury heard almost no mitigating evidence in the sentencing phase of either trial. And the limited evidence they did hear was erroneously restricted by court instruction.

The firm has represented Mr. Ferguson through state proceedings to challenge his sentences and convictions, as well as his competence to assist counsel. We are currently in the process of a federal review of his case. In more than 23 years of litigation in this case, the firm has conducted numerous arguments and hearings, and filed hundreds of motions, briefs and other pleadings on Mr. Ferguson’s behalf.

The firm is also representing William Thomas Zeigler, Jr. He was sentenced to death, against the recommendation of the jury, in 1976 in Florida for the murders of his wife, parents-in-law, and a fourth person. In an effort to free Mr. Zeigler from death row, we challenged the denial of Mr. Zeigler’s efforts to void his convictions by the Circuit Court of Orange County, petitioned for his release, and sought to gain access to evidence from the case in order to conduct additional DNA testing. Our legal efforts center on DNA test results, which have come to light since the original trial, that contradict the state’s case and corroborate Mr. Zeigler’s consistent claim of innocence.

Additionally, Hogan & Hartson represented Juan Raul Garza, who in 2001 was the first prisoner who exercised his legal rights to fight execution and was executed by the federal government since 1963. The jury that sentenced Juan Garza to death was told repeatedly and inaccurately by the federal prosecutor that Mr. Garza could be released from prison in as little as 20 years if he were not sentenced to death. In fact, under the Federal Sentencing Guidelines, the jury could have sentenced Mr. Garza to life in prison without the possibility of release. Our legal team sought a stay of execution from the United States Supreme Court and presidential clemency on those grounds. We also argued that the federal death penalty is biased against minorities and that Mr. Garza’s death sentence would violate two international treaties. We cited 26 cases with crimes similar to Mr. Garza’s where prosecutors did not seek the federal death penalty. Mr. Garza was executed on June 19, 2001.

The firm’s policy and other advocacy work related to the death penalty has included:

- Counseling a broad coalition of civil rights and civil liberties advocacy groups during the 1980s on the proposed Racial Justice Act, which would have made it unlawful for states to impose or execute death sentences in a racially disproportionate pattern.

- Filing an amicus brief opposing the juvenile death penalty in 2004 in *Roper v. Simons*. The brief was cited by the court in its opinion.

- Assisting a Georgia state death row inmate in his challenge of a death sentence for a murder committed when he was 17, which was struck down following *Roper*.

- Advocating for the NAACP Legal Defense and Educational Fund, Inc. to urge the Supreme Court to review the case of Gary Sterling. He was an African-American who was sentenced to death by an all-white jury in Texas. The jury included a member who Mr. Sterling’s lawyer admitted was “probably . . . racially prejudiced.” Mr. Sterling was executed in 2005.
Hogan & Hartson has long been committed to promoting access to justice through educating those who might not otherwise know their legal rights.

For example, some of the firm’s New York-based lawyers mentor a team of students from Jane Addams High School in the Bronx in a legal studies program. We help to prepare the students each year for a mock trial competition and a moot court competition. Sponsored by Fordham Law School, the competitions are designed as mentor programs to help students learn about the law, as well as to give them advocacy and appellate skills.

Since 1985, the firm has organized the Introduction to Legal Reasoning course each summer for prospective law students who are members of groups traditionally disadvantaged or underrepresented in the practice of law. The course, sponsored by the Washington Lawyers Committee for Civil Rights and Urban Affairs, helps these students in the transition from college to law school. Firm lawyers and summer associates also teach a section of students for the six-week course each year.

With the ACLU of Colorado, the firm developed a curriculum to help Cheltenham Elementary School students understand the U.S. Constitution and the Bill of Rights. The work builds on a relationship between Cheltenham and the Denver office, which involves an active tutoring program.

Hogan & Hartson also partners with the Thurgood Marshall Public Charter School, located in Anacostia in Southeast Washington, D.C. Marshall’s students live predominantly in Wards 7 and 8, which have the overall lowest high school and college graduation rates in the district. However, all of Marshall’s graduating seniors have been accepted to college. Part of the program involves more than 40 Hogan & Hartson lawyers, who team up each year with Marshall faculty to bring 125 ninth graders to the firm for monthly Law Day sessions. In these sessions, attorneys instruct the students on legal issues, civics, and other important topics.

Additionally, in the interest of creating better public information and awareness of legal rights and issues, the firm has provided Street Law programs in Washington, D.C., public information sessions on consumer finance during Pro Bono Week, and training for visiting students.
From the CSD's beginnings, Hogan & Hartson has been devoted to providing pro bono legal help to nonprofit organizations. The firm has provided legal work to start up some of the most important organizations now protecting the public interest and the rights of those without access to justice. Firm attorneys have handled legal issues involving contracts, taxation, labor and employment, real estate, intellectual property and many other matters for these incredible clients. Hogan & Hartson lawyers throughout the firm’s practices and offices have used their skills to help our CSD organization clients devote more time and attention to their good work.

While the hundreds of clients we have assisted are far too numerous to name, we have listed a sampling of clients. We have been proud to assist groups like the following in our 40 years of pro bono service:

- World Foundation for Music and Healing
- Little Sisters of the Poor
- The Community Foundation of Washington D.C.
- Fair Chance
- Arms of Love
- Women's Legal Defense Fund
  (now National Partnership for Women and Families)
- ERAmerica
- The New Teacher Project
- Evergreen Country Day School
- Herz-Jesu Schule Berlin
- Hoop Dreams Scholarship Fund
- College Bound
- Capital Partners for Education
- Teach for America
- Teach First Deutschland
- Prepare the Future
- Freedom Now
- Advancement Project
- International Rescue Committee
- Africa Society of the National Summit on Africa
- Bosnian Handicrafts, Inc.
- Microfinance Opportunities, Inc.
- Fundacja Talizman
- Princeton in Africa
- Haitian Heritage Museum
- Jane Goodall Institute
- National Hospice & Palliative Care Organization
- Baltimore City Healthy Start, Inc.
- Food & Friends
- Friends of Israel Children’s Museum
- Big Brothers Big Sisters of Russia
- Mexican-American Legal Defense & Education Fund
- Vietnam Veterans Memorial Fund
- Earth Conservation Corps
- Carpenter’s Shelter
- Ovarian Cancer National Alliance
- Moveable Feast
- Doorways for Women and Families
- Calvary Women’s Services
- N Street Village
- SARC
- Northern Westchester Shelter
- Asociación Damas Salesianas
- Children’s Museum of Denver
- ADIE (Association pour le droit à l’initiative économique)
- Rosie’s Patrol, Inc.
- Romanian Children’s Leukemia Aid Foundation
- National Law Center on Homelessness and Poverty
- District of Columbia Developing Families Center
- The Family Health and Birth Center
- My Sister’s Place
- National Law Enforcement Officers Memorial Fund
- Park Heights Community Health Alliance
- Seeds for a Better World
- World Orchestra for Peace
- Deutscher Kulturrat
- Lyric Fest
- America’s Charities
- Nazareth Housing
- Citizens Commission on Civil Rights
- PEN/Faulkner Foundation
- Family and Child Services
  (now known as Family Matters of Greater Washington)
- Downtown Cluster of Congregations
- Friends of Warsaw Children’s Hospital
• CSD PARTNERS •

JOHN M. FERREN
1970–1976

SALLY DETERMAN & DAVID TATEL
1976–1981

JOSEPH HASSETT
1981–1985

WILLIAM A. BRADFORD, JR.
1985–1989

JOHN C. KEENEY, JR.
1989–1993

WALTER SMITH
1993–1997

JONATHAN ABRAM
1997–2000

BOB DUNCAN
2000–2004

PAT BRANNAN
2004–PRESENT