

Vandenberg to NATO: Fight “Modern Day Slave Trade”

Hundreds of nightclubs dot the landscape in post-war Bosnia and Herzegovina. But beyond the expected hard liquor and local fare, some of these establishments also offer their customers trafficked females trapped in debt bondage.

Martina E. Vandenberg, an Associate with Jenner & Block, has played a significant role in a multinational group of experts advising NATO on developing a new policy to help counter such nightclubs and other outfits that promote or participate in human trafficking. In March, she delivered a powerful speech to a NATO conference on trafficking in persons, which called for increased training for peacekeepers, legal reform and heightened prosecution of wrongdoers.

“I sought to use this speech before NATO to leap from the more theoretical aspects of the issue to the real-world consequences of the absence of a policy: impunity for perpetrators of trafficking,” Ms. Vandenberg said.



New NATO policy targets “truly gruesome human rights violations.”

—Associate Martina E. Vandenberg

The March gathering of leaders that resulted in a new anti-trafficking policy was the first ever NATO conference on trafficking in persons, and was hosted by U.S. and Norwegian missions to NATO, in cooperation with Washington, DC’s Center for Strategic and International Studies (CSIS). The policy was formally adopted on June 16.

The U.S. government estimates that each year between 600,000 and 800,000 men,

Ms. Vandenberg was the natural choice for the NATO assignment: in November 2002, Human Rights Watch published a 74-page report that Ms. Vandenberg had voluntarily prepared regarding human trafficking into Bosnia and Herzegovina, titled, *Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution*.

The report documented widespread trafficking into the region and cited cases in which U.S. contractors serving as international police officers and military logistics personnel alongside U.S. forces had purchased trafficked women as chattel from local brothel owners. The report also included one case of a Russian peacekeeper who trafficked

women into Bosnia and Herzegovina, selling them to the owner of a nightclub.

“U.S. government contractors who purchased women in Bosnia received a slap on the wrist and a quick trip home. Not one was prosecuted in Bosnia or in the United States,” Ms. Vandenberg said.

Ms. Vandenberg says she relished the March pro bono opportunity to continue the analytical work she began with her first trafficking research mission to Bosnia and Herzegovina in 1999. She continues to provide pro bono advice to CSIS on implementation of the NATO anti-trafficking policy.

Since the meeting in March, Ambassadors Burns and Eide have guided the adoption of the policy, which was presented for final approval by the Euro-Atlantic Partnership Council Ambassadors on June 16.

“With training for peacekeepers, legal reform, and a commitment from nations to prosecute the perpetrators, we have a fighting chance of ending these truly gruesome human rights violations,” concluded Ms. Vandenberg.

women and children are bought, sold, transported across national borders and held against their will for forced labor, forced prostitution, and other forms of exploitation. In the Balkans, most of these individuals come from the former Soviet Union or Eastern Europe. But, according to Ms. Vandenberg, these statistics will never accurately reflect the horror experienced by trafficking victims, who often “suffer in complete isolation.”

“It’s a modern-day slave trade,” said R. Nicholas Burns, the U.S. ambassador to NATO, and Kai Eide, the Norwegian ambassador to NATO, in a March 4 editorial piece published by *The International Herald Tribune*.

Speaking before an audience of approximately 120 ambassadors, military officers, and staff, Ms. Vandenberg’s remarks focused on the need to prosecute perpetrators of trafficking in persons and to protect the victims of trafficking in accordance with international law. She had been tapped to address the conference by Dr. Sarah Mendelson, a senior fellow at CSIS.

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Wrongfully Accused: Brothers' 15-Year Legal Battle Ends With Victory

A 15-year legal battle came to a victorious conclusion on March 2, when the Firm's client, Juan Johnson, was found not guilty of first degree murder. Juan Johnson, his brother Henry Johnson, and two other individuals were arrested in 1989 after a large street brawl resulted in the death of a gang member. What followed was a harrowing ordeal for the wrongfully accused brothers who spent eleven years in prison, and eventually an uncommon tale of personal redemption.

"If it wasn't for Jenner & Block and the time they poured into our case, we would never have been free," said Juan Johnson during a recent interview.

Mr. Johnson now volunteers with the Cease Fire Program of the Boys and Girls Club, which endeavors to end gang violence on the city's streets.

"What I always tell kids is that it's very important to stay out of gangs early on, because it's so easy to be caught in the wrong place at the wrong time."

Since they got involved in the case, Jenner & Block Partner Robert R. Stauffer and Associates Robert J. Blazejowski and Darren H. Lubetzky pursued their clients' interest without relent, even though the Johnson brothers were admittedly members of a gang named the Spanish Cobras and several members of the allied Latin Eagles had identified the Johnsons and two other individuals as the victim's attackers in line-ups.

In fact, Juan Johnson and his brother Henry had been convicted of first degree murder in a bench trial. The Johnsons' first lawyer did almost no investigation before the trial. The State's evidence in that case consisted solely of the eyewitness testimony of members of the Latin Eagles gang.

The Johnsons were each sentenced

to 30 years incarceration. To assist their appeal, the brothers retained solo practitioner Dan Stohr, who discovered a number of exculpatory, unbiased witnesses and obtained a post-conviction hearing with the trial court. But despite the testimony of the acquitted co-defendant that he, in fact, was the guilty party and that the Johnsons were not involved in the attack, the trial court refused to reverse the Johnsons' convictions.

At that point, Mr. Stohr brought Jenner & Block into the case as co-counsel on the appeal.

"I'd been working on the case for

younger brother Juan had earned college degrees while serving their sentences. Henry currently has a job as a construction worker in Chicago. Juan has been heavily involved in We Demand Justice, a group that focuses on trying to reform police methods in the city, such as the lack of investigation that was conducted on his own case. He also regularly attends police board meetings to speak to commanders and police chiefs about enforcement problems in the community and how to solve them.

Though his brother Henry chose to forego the risk of a re-trial, Juan

Johnson's new trial began on February 17, 2004. The state's evidence again consisted primarily of the testimony of two Latin Eagles who identified Juan as having beaten the victim with a piece of lumber. The defense this time around, however, had presented an array of evidence and witnesses, including four individuals who said they had observed the beating and that the culprits were light-skinned Hispanics, in contrast to the Firm's client, an African-American man.

After a week-long trial, the jury delivered a not-guilty verdict.

"Jenner & Block took a very gutsy approach to the defense," Mr. Stohr said. "There were two possible paths: one was to prove mistaken identification, which would have been easier, and the other would have been to prove false identification. They had the confidence in the facts to take the more difficult approach – and I know from talking with the jury after the verdict that false identification is what led to Juan's acquittal."

Juan has said he feels grateful to be spending time with his family now as a free man. "Ever since that not guilty verdict, I'm enjoying every day," Juan said.



From left: Partner Robert R. Stauffer, clients Henry and Juan Johnson, and Associate Robert J. Blazejowski in 2002 after the brothers were released from prison thanks to an appellate court victory.

ten years and was very discouraged," recalled Mr. Stohr. He said he had worked successfully with Jenner & Block's attorneys on similar pro bono cases and thought this team approach would be best for the Johnsons.

Jenner & Block filed briefs with the appellate court, emphasizing substantive new evidence of their clients' innocence, and Mr. Lubetzky presented the oral argument. Accepting Mr. Lubetzky's arguments, the appellate court reversed the brothers' convictions in May 2002 and remanded the case for a new trial. The Johnson brothers were freed on bond in November 2002, after serving over 11 years in prison.

Remarkably, both Henry and his

Epic Fair Housing Battle Finally Tried in Baltimore

A class of African-American public housing residents finally had their day in court last December when U.S. District Judge Marvin J. Garbis heard three weeks of testimony in the trial of a closely watched discrimination case that pits the residents against Baltimore's Housing Authority and the Department of Housing & Urban Development (HUD).

Jenner & Block's nine years of work on the case culminated in a one-month trial in December, including two days of closing argument. Partner Susan R. Podolsky led the trial team, which included the American Civil Liberties Union of Maryland, and argued the case for the plaintiffs tenants, who allege that local and federal officials have propagated a system of racial segregation through the unfair administration of public housing.

"As a result of governmental segregative public housing policies and practices, and a failure by local

and federal government forces to desegregate public housing, our clients have always been confined to a certain kind of neighborhood – that is, a poor, black and socio-economically distressed neighborhood," said Ms. Podolsky.

The *Baltimore Sun* called the case, which is expected to be decided later this year, "one of the most significant civil rights actions in the city's history."

The tenants argue that the practice of racially isolating public housing residents not only violates the Constitution but also several federal fair housing laws. The tenants contend that the city and HUD have exacerbated the racial segregation that has characterized this system since the 1930s and earlier by continuing to build public housing exclusively in poor, predominantly African-American neighborhoods.

In 1996, the parties agreed to a partial consent decree that settled the plaintiffs' claims as to several housing

projects, but the broader issue of systemic discrimination had never been tried – until now.

Ms. Podolsky concluded: "If we can succeed, we hope to obtain a remedy that gives these residents opportunities – for the first time in history – to live in neighborhoods that are racially diverse and that present access to good jobs, better schools, and safer streets."

Jenner & Block Associate Brian P. Hauck is currently assisting Ms. Podolsky in the Baltimore litigation. Many other Firm attorneys have also worked on this case over the years, including Partners Donald B. Verrilli, Jr., Marc A. Goldman and Katherine A. Fallow, and Associate David Fagundes. Former Associate Olivier Sylvain continues to assist on the case as well.



Susan R. Podolsky

Firm Assists United Way in its Reorganization

Partner Elmer W. Johnson has led a Jenner & Block team over the past year to take on the formidable task of consolidating approximately 50 area United Way organizations into a larger, umbrella organization, the United Way of Metropolitan Chicago (UWMC).

It is estimated that this consolidation saved the charity over \$3 million in annual administrative costs, so that more of every donated dollar will go to agencies that directly aid the needy.

"The Jenner & Block team lent weight to our reform efforts," said Janet Froetscher, President and CEO of the UWMC, at a June reception where the Firm was honored by the organization for its work. "We'll always be grateful."

"All of these actions are resulting in a rising level of confidence in UWMC among the donor community," Mr. Johnson said. "I expect to see contributions rise about 5 percent per year over the next few years."

For more information on the UWMC and its work, please visit the organization's website at <http://www.uwonline.org/>.



UWMC honors the Firm for its pro bono counsel to the non-profit: (from left) Ms. Froetscher, Partner Craig C. Martin, Partner Elmer W. Johnson, and Managing Partner Robert L. Graham. Messrs. Martin & Johnson were key members of the Firm's team that aided the UWMC.

Firm Involved in All Three Supreme Court Enemy Combatant Cases

The U.S. Supreme Court in June issued decisions in three closely watched cases concerning the rights afforded to so-called “enemy combatants” captured during the war on terrorism. Jenner & Block was involved in all three cases, either as co-counsel to one of the alleged enemy combatants or as counsel to important *amici*.

The High Court ruled 6-3 that U.S. citizen Yaser Esam Hamdi and the foreign nationals at Guantanamo Bay who are being held by the government have the right to challenge their detentions in court. While the Court upheld the government’s right to declare an individual an “enemy combatant,” the decisions in *Hamdi v. Rumsfeld* and *Rasul v. Bush* are a significant victory for the Jenner & Block clients who submitted amicus briefs to the Justices on behalf of the detainees advocating their right to the basic elements of due process.

Meanwhile, in *Rumsfeld v. Padilla*, a third case involving U.S. citizen Jose Padilla who has also been held by the military without trial, the Court ruled that the lawsuit improperly named Defense Secretary Donald Rumsfeld instead of the military officer in charge of the South Carolina brig where Mr. Padilla is being held and did not rule on the case’s merits. As a result, Jenner & Block Partner David W. DeBruin and the rest of Mr. Padilla’s legal team must now re-file a lawsuit to challenge their client’s detention.

However, Justice Stevens, writing the dissent in the *Padilla* case, stated, “at stake in this case is nothing less than the essence of a free society.”

The government in all three cases had maintained it possessed the right to declare any individual, even U.S. citizens, an “enemy combatant,” and therefore, detain that person indefinitely and without charge for the duration of hostilities, as the President sees fit.

“These decisions make clear that at least five Justices do not believe the government may subject

American citizens arrested in the United States to protracted, incommunicado detention,” said Mr. DeBruin, following the decisions. “Mr. Padilla already has been held by the military for over two years. Although the Court’s narrow jurisdictional ruling requires Mr. Padilla to re-file his habeas corpus petition in South Carolina, under the Court’s collective opinions today, the Government must either indict Mr. Padilla with criminal charges or immediately release him.”



Partner David W. DeBruin answers reporters’ questions following the oral argument in the *Padilla* case.

The *Padilla* case raised the unique question of whether a U.S. citizen can be arrested on U.S. soil and declared to be an enemy combatant.

Mr. Padilla is a former resident of Chicago who has been held by order of the President in solitary confinement in a military prison for almost two years, without trial or a hearing of any kind. He was arrested at Chicago’s O’Hare airport as a material witness by civilian authorities and was then transferred to military custody. The government alleges that he was plotting a terrorist attack within the United States. Mr. Padilla has been allowed a brief meeting with his lawyers, but that meeting was closely monitored by the U.S. military.

On April 28, Mr. Padilla’s case was argued before the Court by former Jenner & Block attorney and current Stanford Law School Professor Jenny Martinez.



Partner
Barry Sullivan



Partner
Shelley Malinowski

Donna R. Newman and Andrew G. Patel, the two lawyers originally appointed to represent Mr. Padilla in New York, also represent Mr. Padilla, along with Jonathan M. Freiman of Wiggin and Dana.

“We look forward to prompt vindication of his rights upon the filing of a habeas petition in South Carolina,” concluded Mr. DeBruin.

In the *Hamdi* case, Justice Sandra Day O’Connor said the Court has “made clear that a state of war is not a blank check for the president when it comes to the rights of the nation’s citizens.”

“In some ways, this is an even more impressive victory for the rule of law than it appears at first blush,” said Partner Barry Sullivan, who, along with Partner Shelley Malinowski, filed a brief supporting Mr. Hamdi’s right to due process and access to counsel on behalf of the American Bar Association. “People will say that this is a 6-3 decision, but it’s far from that. Of the three dissenting Justices, two dissented because they thought Justice O’Connor’s opinion did not go far enough in protecting citizens labeled as enemy combatants. The two concurring Justices also thought Justice O’Connor’s opinion didn’t go far enough, but they joined it with reservations. Only Justice Thomas fully accepted the government’s position.”

While the *Padilla* case raised the issue of whether a U.S. citizen arrested within the nation’s borders can be declared an enemy combatant, the *Hamdi* case addressed whether a U.S. citizen captured in another country and transported to the U.S. maintains his or her Constitutionally guaranteed rights if designated an



Jenny Martinez, currently a law professor at Stanford and a Jenner & Block Alum, argued the *Padilla* case before the Court.

enemy combatant.

Yaser Esam Hamdi was captured during the hostilities in Afghanistan, taken to Guantanamo Bay, and, once his citizenship was discovered, transferred to a Navy brig in Virginia. He has been held by the government for more than two years and was only recently allowed to see his lawyer, long after the record in his case had been closed, and then, only in closely monitored circumstances.

The Jenner & Block brief filed with the U.S. Supreme Court on behalf of the American Bar Association argued that the position taken by the government in *Hamdi*, that U.S. citizens may be held indefinitely and without access to counsel, "is fundamentally incompatible with the constitutional guarantee of due process, with the [proper] role [of] the courts...and with the rule of law itself" and urged the Court to intervene.

Mr. Sullivan is Co-Chair of the Bill of Rights Committee of the ABA Section of Individual Rights

and Responsibilities. He and Ms. Malinowski were assisted in the case by Associates Robert L. Schultz, Erinn L. Wehrman, Shyni R. Varghese, Patricia L. Boye-Williams and Ana R. Raffals.

In the *Rasul* case, the Court ruled that foreign terror suspects can use U.S. courts to challenge their detentions. Partner David J. Bradford led several Jenner & Block attorneys to file an amicus brief in the "Guantanamo Bay Cases," *Rasul v. Bush* and *Al-Odah v. United States* (consolidated), on behalf of several retired judges arguing for the Guantanamo Bay detainees' right to due process.



Partner
David J. Bradford

The petitioners in this case were citizens from friendly countries, such as those from the United Kingdom and Australia, who are being held at the naval detention facility in Cuba.

"Application of the habeas statute to persons detained at the base is consistent with the historical reach of the writ of habeas corpus," the Justices wrote in their decision.

"This is an important reaffirmation of the rule of law. It reflects that we will not easily forsake the values that have made our system of government a model for the world," said Mr. Bradford following the decision.

Mr. Bradford, along with

Pro Bono Online

Amicus Brief Banks Aid Research

As a public service, Jenner & Block created an online brief depository for each of the enemy combatant cases. The brief banks contain over 85 documents, including nearly all the amicus briefs and court filings in the *Rasul*, *Hamdi*, and *Padilla* cases.

The sites are available at:

- <http://www.jenner.com/gitmo>
- <http://www.jenner.com/hamdi>
- <http://www.jenner.com/padilla>

Associates Steven McMahon Zeller, Matthew T. Albaugh and Winston O. Huff, wrote the amicus brief on behalf of notable retired jurists Nathaniel R. Jones (6th Circuit) and Abner J. Mikva (DC Circuit), among others.

The three related cases garnered widespread global interest and a wide range of interested parties filed amicus briefs, including groups of former military officers, prisoners of war, and 175 Members of the British Parliament. A brief was also filed by Fred Korematsu, a plaintiff in the 1944 Supreme Court case that permitted Japanese-American internment camps during World War II.

What happens to the detainees in light of the decisions remains to be seen. "A great principle of law has been established," concluded Mr. Sullivan. "But the question remains: how will it be applied in practice?"

Major Victory in Ongoing Right to Die Case

A Florida trial judge in May struck down on constitutional grounds the law that has forced the use of artificial means to sustain the life of Theresa Schiavo, a woman who has been in a persistent vegetative state for 14 years. Florida Governor Jeb Bush, who had promoted the law, has filed an appeal.

Jenner & Block Partners Thomas J. Perrelli and Robert M. Portman, along with Associates Kali N. Bracey, Iris E. Bennett, Elizabeth G. Porter, Matthew S. Hellman, and David Fagundes, were part of the legal team repre-

senting Mrs. Schiavo's husband, who urged the court to rule that a patient ultimately has the right to control his or her own medical care, including the use of artificial means to sustain life.

"We are gratified that the trial court found that Mrs. Schiavo, and not Governor Bush, determines her own care and may choose to forego artificial methods to sustain her life," said Mr. Perrelli.

On June 16, the Florida Supreme Court agreed to hear the case and is expected to hear argument in late August.

2004 a Golden Anniversary for Sullivan

The fiftieth anniversary of Partner Thomas P. Sullivan at Jenner & Block will be underscored this fall when he receives the American Judicature Society's Justice Award for lifetime achievements in "fostering the equitable administration of justice."

Mr. Sullivan was hailed as a "model" for attorneys who also aspire to be leaders in their community through pro bono representation of the poor when he was inducted on March 3 into the Illinois State Bar Association's (ISBA) prestigious Academy of Illinois Lawyers.

"It is a great honor to receive awards from these outstanding organizations," Mr. Sullivan said.

Mr. Sullivan's colleagues say the recognition is not only timely but eminently deserved.

"Tom Sullivan's contributions to our Firm, our clients, our community, and the less fortunate among us, are legendary," said Partner Jeffrey D. Colman, whose own career has spanned 30 years, much of which has been spent alongside Mr. Sullivan. "He is totally committed to providing the highest quality

representation to clients no matter what their social or economic standing, and doing so in a cost-effective and efficient manner.

Tom expects a great deal out of people with whom he works, but never more than he is willing to give himself. He has devoted thousands of hours to improving our criminal and civil justice systems, and he cares deeply about the quest to provide equal justice for all. Most fundamentally, Tom is deeply committed to his colleagues, his family and his friends.

He is, in short, an extraordinary lawyer and human being."

Jerold S. Solovy, Chairman of Jenner & Block and also an ISBA Academy Laureate, said that Mr. Sullivan is "one of the fathers of the Firm's exceptional pro bono program," and an "inspiration" for all the Firm's

attorneys who dedicate their time to pro bono cases and causes.

"The impact of Tom Sullivan's work speaks to how appropriate it is for his induction into the Academy of Illinois Lawyers; equally fitting is the Justice Award, the American Judicature Society's highest award," said Managing Partner Robert L. Graham. "It's reserved for attorneys who have contributed to the justice system on a national level. His body of work is



Mr. Sullivan in 1985 – the repercussions from Operation Greylord, the historic investigation of the Cook County court system, that he began as U.S. Attorney years earlier were just beginning to unfold.

Highlights from an Illustrious Career

In the mid-1950s, Mr. Sullivan and colleagues Prentice H. Marshall and Jerold S. Solovy launched the Firm's commitment to the defense of indigent criminal defendants. They joined and he later chaired the Chicago Bar Association Defense of Prisoners Committee. The Firm has continued to devote major resources to trials and appeals for those who cannot afford counsel, and have achieved many important victories and established significant precedents in these cases.

1950

1960

Together with the late John C. Stifler, Mr. Sullivan represented the Contract Buyers League for a decade beginning in 1965. They challenged the practices of home sellers and lending institutions who allegedly discriminated against African-American buyers on the south and west sides of Chicago through long term contracts with onerous payment and forfeiture provisions. The cases eventually yielded millions of dollars of savings for hundreds of families by conversion of the contracts to conventional mortgage financing.

From 1965 to 1968, Mr. Sullivan and Albert E. Jenner, Jr. represented clients in an historic confrontation and extended civil and criminal litigation with the United States House of Representatives Committee on Un-American Activities, which played an important role in the abolition of this controversial committee.

When the U. S. Supreme Court ruled in 1966 that states must pay for trial transcripts so indigent defendants could appeal their convictions, Mr. Sullivan and other Firm lawyers spearheaded the recruitment of lawyers throughout Illinois to handle the hundreds of appeals in past cases in which no appeal had been taken because the convicted defendant could not afford to purchase the transcript.

rightly viewed as one of the hallmarks of our Firm's history."

Most recently, Mr. Sullivan acted as Independent Monitor of the Chicago Housing Authority relocation process from 2001-2002, and with Associate Robert J. Blazejowski and former Associate Zubair A. Khan, made reports and recommendations for changes to the process.

He served as Co-Chair of Governor George Ryan's Commission on Capital Punishment, which rendered a report in 2002 that played a key role in Governor Ryan's commutation of all death row inmates. He continues to write and speak about needed reforms to the criminal justice system.

However, since the outset of his

career, Mr. Sullivan has been remarkably active in pro bono and community service activities.

Mr. Sullivan has received a number of awards for his public service, including:

- The Chicago Bar Association's Justice John Paul Stevens Award, 2000.
- The American Bar Association Section of Litigation's John Minor Wisdom Public Service and Professionalism Award, 2003.
- The Northwestern University School of Law Center on Wrongful Convictions' Award "for his unwavering commitment to fairness and justice," 2003.



Pictured, from left to right during the ISBA Laureate celebration attended by more than 500 attorneys, dignitaries, and guests from across the state: Partner Joseph G. Bisceglia, Third Vice-President of the ISBA, Illinois Supreme Court Chief Justice Mary Ann McMorrow, and newly inducted Laureate Mr. Sullivan.



"The message from the report is clear: repair or repeal. Fix the capital punishment system or abolish it. There is no other principled course."

—Mr. Sullivan's remarks to the media upon releasing the Commission on Capital Punishment's influential findings & recommendations.

Following the tumultuous 1968 Democratic Convention in Chicago, Mr. Sullivan represented four lawyers who were threatened with contempt by federal Judge Julius Hoffman, who attempted to force them to act as Bobby Seale's defense lawyers in the Chicago Seven conspiracy trial. He was also one of the defense lawyers for Eugene McCarthy delegates who were criminally charged for refusing to disperse while marching to the convention center.

1970

Mr. Sullivan, with Albert E. Jenner, Jr., Jerold S. Solovy and John C. Tucker, represented William Witherspoon in the United States Supreme Court leading to a landmark ruling in 1969 regarding selection of juries in capital cases.

He served for many years as a member of the Illinois Supreme Court and Seventh Circuit committees on pattern jury instructions in criminal cases, and the Illinois Supreme Court rules committee.

1980

From 1977 to 1981 Mr. Sullivan served as United States Attorney for the Northern District of Illinois, during which he conceived and implemented the Greylord investigation of the Cook County court system.

With Partner Jeffrey D. Colman and former Partner William H. Von Hoene, he investigated and reported to Mayor Harold Washington concerning misconduct in city government and recommended reforms.

1990

In 2000, with former Partners Randall E. Mehrberg and William H. Farley, Jr. and Partner Seth A. Travis, he conducted an investigation and reported to the City Council of Highland Park regarding alleged racial profiling and other misconduct by the Police Department, and made recommendations for reforms.

2000

Corporate & Tax Attorneys Help Non-Profits Stretch Budgets

Jenner & Block's Corporate and Tax attorneys have been helping a number of start-up and established non-profit organizations stretch their budgets by providing free organizational and tax counseling. Without that help, many of these non-profits might otherwise have had difficulty delivering their planned services or serve the public efficiently.

"The pro bono transactional and tax counseling Jenner & Block provides is certainly a reflection of the values at the Firm," explained Partner Gail H. Morse, Chair of the Firm's State & Local Tax Practice. "It also helps these organizations put their values into action by having the sound financial structure to sustain their work in the community."

"For instance, I have been leading a Jenner & Block team to advise The HistoryMakers, a Chicago-based organization that is dedicated to preserving the history of African-Americans, on a variety of corporate and tax issues," stated Ms. Morse.

"Many of these non-profits are relatively small and there is tremendous competition among such groups over every donated dollar from the public," said Ms. Morse. "We regularly help such emerging organizations secure 501(c)(3) status, which enables the organization to accept fully tax-deductible donations,

and is also, of course, a great aid in their work soliciting charitable donations."

Some of the projects where Jenner & Block Corporate & Tax attorneys are volunteering their skills include:

- Associates Tobias L. Knapp and Jordan A. Peev as well as Partners John E. Welch and Ms. Morse working with a charitable organization in the United Kingdom that is attempting to build a Museum of Immigration there. The attorneys are helping the organization to incorporate as a non-profit and gain 501(c)(3) status in the U.S.
- Partner Charles J. McCarthy and Associates Steven R. Meier and Michael D. Thompson assisting with the formation of a not-for-profit corporation and obtaining 501(c)(3) status for Whole Armour Ministries, which distributes the Bible through a variety of media.
- Associate Timothy M. Costa working to obtain 501(c)(3) status for Time Dollar Tutoring, an organization that partners with Chicago Public Schools to tutor students. He has also been working with the Hispanic Housing Development Corporation to assist with the processing of rezoning applications to build new low-income housing.

- Associate Mary C. Talarico advising the Episcopal Peace Fellowship, a group formed in 1939 that promotes peace and social justice, which had been operated as unincorporated 501(c)(4) non-profit association without tax deductibility for its donations. Ms. Talarico aided the group to reorganize as an incorporated non-profit as well as to secure 501(c)(3) status as a public charity for maximum income tax deductibility for its donors.
- Associate Jeffrey R. Shuman updating the bylaws of The Frances Willard Historical Association, a not for profit association devoted to the operation and preservation of a museum located in Evanston, Illinois dedicated to the life and work of nineteenth-century temperance and women's rights crusader Frances Willard.

Other attorneys have been helping larger, established organizations expand their services to the public:

- Partner John F. Cox working with the Boys & Girls Clubs of Chicago to help the organization examine and optimize its corporate by-laws.
- Partner Scott J. Moore working with the Chicago Children's Museum to establish financing for its capital improvement projects.

Jury Selection Discrimination Again Briefed For Supreme Court

As co-counsel for the Lawyers' Committee for Civil Rights Under Law, Jenner & Block Partner Barry Sullivan and Associates Margaret J. Simpson, Adam Miller, and Duane Pozza recently cooperated with the Lawyers' Committee and other major national civil rights groups in filing a U.S. Supreme Court *amicus* brief in *Johnson v. California*, a case in which the Justices were to consider the validity of California's interpretation of *Batson v. Kentucky*.

The landmark 1986 Supreme Court *Batson* decision prohibited prosecutors from rejecting potential jurors based solely on their race and spelled out a three-step process for determining whether a prosecutor had so discriminated against a candidate.

The *amicus* brief in *Johnson* argued that the state's Supreme Court had misinterpreted the provisions of the

Batson decision by requiring a defendant to prove a "strong likelihood" of discrimination during the *prima facie* step of a *Batson* challenge. The decision in *Batson* required only that a defendant introduce facts supporting an "inference" of racial discrimination.

The *amici* wrote, "This Court should disapprove the standard enunciated by the court below because...it impedes the discovery and eradication of racial discrimination that was the purpose of *Batson*."

The Court, however, issued a per curiam dismissal in May because a final judgment had not been entered in the California courts.

"Given the importance of the issue," Mr. Sullivan said, "it will certainly return to the Court in the near future – our brief will be ready."

Illinois State Bar Lauds Firm's "Unique Commitment" to Pro Bono

The Illinois State Bar Association (ISBA) recently bestowed the prestigious 2004 John C. McAndrews Pro Bono Award upon Jenner & Block for its "unique commitment" to providing pro bono legal aid and service to the community.

"Last year we established a new Firmwide record by devoting 6.2% of all billable hours to pro bono service," noted Managing Partner Robert L. Graham. "In doing so, we also had more compelling courtroom successes than ever on behalf of several Illinois constituencies, including inmates on Death Row, people in need of political asylum and poor families needing affordable housing."

A plaque in recognition of the Firm's service to the profession was presented at the Awards Luncheon at the ISBA's annual meeting on June 18. Jenner & Block was among four recipients of the 2004 award.

The ISBA acknowledged the Firm's many pro bono activities in 2003, including efforts to reform the death penalty or provide counsel to those on Death Row. The ISBA especially took notice of the fact that Jenner & Block Partner Thomas P. Sullivan was Co-Chair of Illinois Governor George Ryan's Commission on Capital Punishment. The Commission's report was widely considered to be an influencing factor in the then-Governor's historic decision last year to grant clemency or pardon all of the individuals on the state's Death Row.

In addition, earlier this year, the Illinois Supreme Court denied the Illinois Attorney General's challenge to the blanket clemency order at the urging of Jenner & Block Partner Terri L. Mascherin and Associate Jason J. Green, thereby leaving intact the traditional right of the state's chief executive to grant clemency to those on Death Row. Ms. Mascherin argued the case, *Madigan v. Snyder*, before the Justices on behalf of long-time pro bono client Willie Thompkins, Jr. and several other inmates.

Mr. Sullivan has subsequently won many related honors,

including last year's recognition by Northwestern University School of Law's Center on Wrongful Convictions for his "commitment to reforming our flawed criminal justice system." In 2003 Ms. Mascherin was selected to Chair the American Bar Association's Death Penalty Representation Project, which aims to educate the Bar and the public about the dearth of legal aid available to those on death row.

The ISBA also took note of the Firm's work on behalf of some of the other Illinois Death Row inmates, including many who have been pro bono clients of the Firm for ten years or more. For instance, Associate Ryan S. Stippich has been part of a Jenner & Block team, led by Partners Robert T. Markowski and Edward F. Malone, that represented an inmate on Illinois' Death Row whose

sentence was reduced to life in prison as part of the 2003 blanket clemency order. The attorneys are currently working on the inmate's appeal.

Associate Daniel J. Weiss, along with Partner David J. Bradford, also represents a former member of Illinois' Death Row. The attorneys are now challenging their client's original conviction on the ground that he was not afforded the assistance of effective counsel at his trial. According to Mr. Weiss, the original trial judge offered virtually no objection to the client representing himself at that proceeding, despite the client being under the influence of an opium-like drug at the time.

Jenner & Block's imprint on death penalty cases with a national as well as local impact started with Firm Chairman Jerold S. Solovy's involvement (along with Name Partner Albert E. Jenner, Jr. and Mr. Sullivan) in the landmark 1968 decision in *Witherspoon v. Illinois*. Last year, in *Wiggins v. Smith*, Partner Donald B. Verrilli, Jr. of the Firm's DC office convinced the U.S. Supreme Court that a death row inmate had received ineffective assistance of counsel. This was only the second time in 20 years that the Court rendered such a decision.



Outgoing ISBA President Terrence J. Lavin (left) presents the 2004 McAndrews Pro Bono Award to Jenner & Block Partner and ISBA Third Vice-President Joseph G. Bisceglia, along with Partner Tanya J. Stanish, a member of the Firm's pro bono committee.

WCL Honors Firm

The Washington Council of Lawyers, a voluntary bar association that promotes the practice of pro bono and public interest law, honored Jenner & Block for its "generous contributions [which] have enabled the Washington Council of Lawyers to continue its work in the public interest." Accepting the award on behalf of the Firm at the WCL's annual awards dinner in November was Washington, DC Managing Partner Paul M. Smith.

Firm Mourns the Passing of Legal Giant

Retired “activist” federal judge and former Jenner & Block Partner, Prentice H. Marshall, Sr., 77, died in his home in Ponce Inlet, Florida, on Monday, May 24, 2004, following a three year battle with cardiac-pulmonary failure and cancer of the bladder. Mr. Marshall was responsible for beginning the Firm’s pro bono program.

“Prentice Marshall was an extraordinary man, a loyal friend, a great intellect, teacher and judge,” said Thomas P. Sullivan, Jenner & Block Partner. “His loving relationship with his wife Lorelei – his high school sweetheart and best friend of over 60 years – was wonderful to observe. He will be remembered fondly, and missed deeply, by all those who were privileged to know him.”

The Chicago Daily Law Bulletin’s report of Mr. Marshall’s passing hailed him as a “pro bono patriarch.”

“Prentice Marshall is truly the father of Jenner & Block’s pro bono legacy,” said Firm Chairman Jerold S. Solovy.

Mr. Marshall was born in Oak Park, Illinois on August 7, 1926, the son of Eva and Frank Marshall. Mr. Marshall graduated from Oak Park – River Forest High School in 1944. He served two years in the United States Navy and attended college and the University of Illinois College of Law, class of 1951 on the G.I. Bill of Rights.

Following law school, Mr. Marshall clerked for a federal appellate judge for two years and then associated with the Chicago firm now known as Jenner & Block, where he excelled as a trial and appellate lawyer.

In 1967, Mr. Marshall left the practice of law (except for the defense of indigent persons accused of crime) and joined the Law Faculty of his alma mater as a professor of evidence, civil and criminal procedure and trial advocacy.

In 1973, Mr. Marshall was appointed by President Richard M. Nixon as a lifetime United States District Judge in Chicago.

Mr. Marshall served as District Judge until April 1996 when he retired. His family says he relished the appellation “activist”



Prentice H. Marshall

federal judge. For instance, he once ordered the Chicago Police department to hire female line officers (which it had never done) and to stop discrimination against Black and Hispanic male officers. When the City of Chicago failed to comply, he joined the U.S. Treasury from disbursing revenue sharing funds to the City.

For more information on Mr. Marshall’s life and work, please see the Summer 2003 issue of *The Heart of the Matter*.

Simon Appointed to Illinois Supreme Court’s Key Rules Committee

Jenner & Block Partner John B. Simon was appointed in January to the Illinois Supreme Court’s Rules Committee. His term continues through 2006.

“I appreciate the privilege to provide input on issues of importance like those typically addressed by the committee. The rules considered by the committee have a profound impact upon litigators and lawyers throughout the state of Illinois,” said Mr. Simon.

The Rules Committee, Mr. Simon notes, studies and recommends new Illinois Supreme Court rules or modifications to its existing rules. Once its recommendations have been finalized, the committee submits its suggested changes to Illinois’ Justices for review.

For example, the committee had proposed to the court in early 2003 that it allow law firms based in Illinois to operate as a Limited Liability Partnerships. In April, the court agreed with the committee’s recommendations and amended its

rules to allow firms to use a LLP organizational structure as of July 1, 2003. Many firms with Illinois offices took advantage of this rule change, including Jenner & Block, which officially became Jenner & Block LLP on January 1, 2004.

Ninth Graders Debate Death Penalty

A team of Jenner & Block volunteers hosted a “Law Day” for 75 ninth grade students of the Thurgood Marshall Academy (TMA), a public charter school in Washington, DC.

Working with the Street Law Program of the Georgetown University Law Center, Jenner & Block partners and associates assisted the students with a March 5 mock City Council debate over the pros and cons of the death penalty. The event was organized by Jenner & Block Partner Jerome L. Epstein.

Partner Donald B. Verrilli, Jr. began the program with a discussion of his personal

experiences representing death row inmates – Mr. Verrilli successfully persuaded the U.S. Supreme Court in 2003 to throw out the death sentence of pro bono client Kevin Wiggins, saying he received ineffective counsel during his original murder trial.

Partners Katherine A. Fallow and Daniel Mach and Associates Ayodele T. Carro, Kathleen R. Hartnett, Brian P. Hauck, Matthew S. Hellman, and Amy L. Tenney then worked individually with the students on advocating the pros and cons of the death penalty and understanding the process of lobbying and legislation.

Sullivan, Hohengarten Win Albert E. Jenner Award

Partners Thomas P. Sullivan and William M. Hohengarten received the Albert E. Jenner, Jr. Pro Bono Award in simultaneous ceremonies last November at Jenner & Block's Chicago and Washington, DC offices for both Partners' extraordinary devotion to community service during 2003. Pro Bono Committee Co-Chairs Barry Levenstam and David W. DeBruin introduced and presented the awards to Messrs. Sullivan and Hohengarten, respectively.

"It was a huge honor for me to receive this award at the same time as Tom Sullivan, whose work to reform the death penalty system makes me extremely proud to be a Partner at Jenner & Block," said Mr. Hohengarten.

Thomas P. Sullivan was honored for, among other things, serving as the Co-Chair of the Governor's



Partner William M. Hohengarten receiving the 2003 Albert E. Jenner, Jr. Pro Bono Award from Pro Bono Committee Co-Chair David W. DeBruin.



Partner Thomas P. Sullivan (left) with Pro Bono Committee Co-Chair Barry Levenstam.

Commission on Capital Punishment, whose report was widely considered

to be an influencing factor in then-Governor George Ryan's historic decision to grant clemency or to pardon all of the individuals on Illinois' Death Row. (See pg. 6 for more on Mr. Sullivan's pro bono work)

William M. Hohengarten performed almost 500 hours of pro bono work on various projects last year and was one of the principal architects behind the effort to persuade the U.S. Supreme Court to strike down a Texas law that criminalized same-sex conduct as unconstitutional, resulting in the landmark 2003 decision of the Justices in *Lawrence v. Texas*.

The Albert E. Jenner, Jr. Pro Bono Award recognizes persons who have provided exceptional legal services to the needy in the finest traditions of Jenner & Block and entitles the recipients to direct a total of \$5,000 to the charity or charities of their choice.

Legal Aid Clinic Award Named for Charles O'Laughlin

The Chicago Legal Aid Clinic recently announced the renaming of its annual pro bono law firm award to honor the late Charles J. O'Laughlin, a founding board member.

Mr. O'Laughlin, whose legal career at Jenner & Block spanned nearly 48 years, died in October of 2003, but not before he had left behind a legacy of public service and pro bono advocacy that won him unwavering admiration from his peers. Before his retirement from the Firm in 1986, Mr. O'Laughlin handled many high profile cases that many in Chicago's legal community as well as lawyers across the country are familiar with.

"Charlie was the epitome of a model litigator," said Jenner & Block's Managing Partner Robert L. Graham. "He was one of the Firm's greatest

trial lawyers," agreed Chairman Jerold S. Solovy.

Perhaps Mr. O'Laughlin's "most lasting accomplishment may be found in his service to the underrepresented," said the Honorable Judge William J. Bauer, Senior Judge of the U.S. Court of Appeals for the 7th Circuit, upon learning of his death.

Indeed, Mr. O'Laughlin was associated with the Chicago Legal Clinic for nearly two decades and served as its Board President from 1986 through 1990, whereupon he assumed the title of President Emeritus. On May 9, 1997, Mr. O'Laughlin was presented with the clinic's First Annual Cardinal Bernadin Award "for action on behalf of social justice, advocacy for the less advantaged, and passionate

promotion of the ideal that we are our brother's keeper."

According to Edward Grossman, Executive Director of the CLC, "When you think of people who lived their lives by traditional values – family, hard work and honesty – you think of Charlie."

The 2004 award will be given to Exelon, whose legal department contributed over 3,000 hours of pro bono representation and community service in 2003.



Charles J. O'Laughlin

The Heart of the Matter

JENNER & BLOCK

Pro Bono and Community Service News

Summer 2004



Daffodil Days Raise Funds to Fight Cancer

The American Cancer Society celebrated the arrival of spring with its perennial Daffodil Days fundraising event. Jenner & Block employees purchased and displayed daffodils in bunches, in the hope that cancer will some day be eliminated. In fact, through its extraordinary purchase of daffodils this year, Jenner & Block raised the most money among Chicago law firms for the second year in a row.

"Daffodil Days has become one of the most anticipated events of the year at Jenner & Block," says Managing Partner Robert L. Graham. "It's a time when our attorneys and staff can come together to help fight a common enemy of us all, cancer," said Mr. Graham. "Like the daffodil itself, Daffodil Days has come to symbolize for us hope, renewal and the promise that one day our world will be free of this disease. And we're all especially proud that we've been able to be a leading participant in this effort."

For more cancer-related information, call 1-800-ACS-2345 or visit the American Cancer Society website at <http://www.cancer.org>.

Team Jenner & Block Scales 1,632 Stairs to Fight Lung Disease

Over 3,800 runners scaled 94 floors of the John Hancock building, including a team of attorneys from Jenner & Block, to raise a half million dollars for the American Lung Association of Metropolitan Chicago, which fights respiratory diseases such as asthma and lung cancer by funding scientific research and educating the community about the hazards of smoking.

The Jenner & Block team was among several other teams from corporations and law firms across Chicago that participated in the February event. Over 300 firefighters, many in full gear, also scaled the skyscraper's 1,632 stairs to raise money for the organization.

The American Lung Association of Metropolitan Chicago will use the funds to aid the 28 million Americans that suffer from some form of lung disease, including the 96,000 children in the Chicago-area alone that suffer from asthma. For more information, please visit <http://www.lungchicago.org/>.



Pictured is the Jenner & Block team – Top row, from left: Camille D. Inocelda, Aaron Parker, Christine L. Childers, Robert S. Osborne, Scott J. Moore, Christian E. Kimball, and Michael D. Thompson; Bottom row, from left: Michael T. Wolf, Team Captain Christine A. Parker, David R. Bowman, Barry Levenstam (who is also a member of the ALA of Metropolitan Chicago Board of Directors), and Jerry J. Burgdoerfer.

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