



The NAACP Legal Defense and Educational Fund, Inc.



2009-2010 ANNUAL REPORT



70 Years

Fulfilling the Promise of

EQUALITY



LDF@70

DEFEND EDUCATE EMPOWER

70TH ANNIVERSARY



A group of approximately 25 people, including men and women of various ethnicities, are posed for a group photo in front of a grand building with large, white, fluted columns. The group is arranged in several rows, with some individuals standing on a set of steps. They are all dressed in professional business attire, including suits, blouses, and dresses. The background shows the architectural details of the building, including the columns and a doorway. The overall atmosphere is formal and professional.

2009 - 2010

NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. ANNUAL REPORT



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2009 - 2010

ANNUAL REPORT

TABLE OF CONTENTS

THE LDF MISSION	2
Overview: Fulfilling the Promise of Equality	3
Message from the Board Co-Chairs	4
Message from the President and Director-Counsel	5
LDF LEADERS: PASSING THE TORCH FOR JUSTICE	6
Thurgood Marshall • Jack Greenberg	
Julius L. Chambers • Elaine R. Jones	
Theodore M. Shaw • John Payton	
LDF'S PILLARS OF EQUALITY: REPORTS FROM THE PRACTICE GROUPS	8
Education	10
Political Participation	14
Criminal Justice	18
Economic Justice	24
WASHINGTON, D.C. OFFICE	30
SCHOLARSHIP PROGRAMS	32
LDF SUPPORTERS	34
FINANCIAL REPORT	49
BOARD OF DIRECTORS	50
REGIONAL COMMITTEES	51
LDF STAFF	52
MAKE AN INVESTMENT IN JUSTICE: SUPPORT LDF	53

LDF

DEFEND EDUCATE EMPOWER



Defend. Educate. Empower.

The NAACP Legal Defense and Educational Fund is America's legal counsel on issues of race.

Through advocacy and litigation, LDF focuses on issues of education, voter protection, economic justice and criminal justice.

We encourage students to embark on careers in the public interest through scholarship and internship programs.

LDF pursues racial justice to move our nation toward a society that fulfills the promise of equality for all Americans.

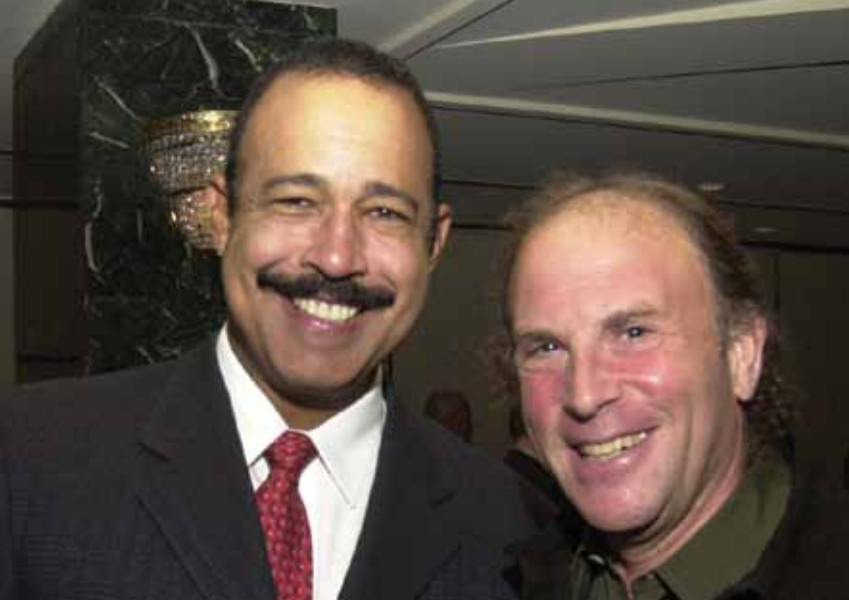


Fulfilling the Promise of Equality.

In seven decades, the NAACP Legal Defense and Educational Fund, Inc. (LDF) has helped change the world.

Since 1940, LDF has used the law and ground-breaking social science techniques to undermine both the legal standing and the actual practice of racial segregation by establishing precedents that affirmed the equal rights of all people. Its work enabled millions of Americans to enjoy for the first time basic rights—to work, to buy a home, to pursue an education—those rights that we take for granted today.

We are well aware, however, that a right gained is not a right secured forever. We continue to call upon those in positions of power and ordinary Americans alike to vindicate the rights that empower us all. We will continue to resist any and all efforts to push back the progress forged in helping America become a “more perfect union.”



A Message from the Board Co-Chairs

DAVID MILLS
THEODORE V. WELLS, JR.

The NAACP Legal Defense and Educational Fund recently turned 70—and it's getting younger every moment. And by younger, we mean more committed to advancing the cause of social and economic justice, and more astute and energetic in fighting for those important goals.

That may seem difficult to believe, given LDF's extraordinary record of achievement in creating and expanding the legal pathways Americans could and did travel to become a democracy in reality, not just rhetorically.

But it's true.

It's deeply satisfying to recall with you in this publication the ground-breaking work of LDF's early and middle years—in part because those recollections underscore the fact that the work of LDF in building and safeguarding the framework for democracy in America continues. The legal cases and advocacy work discussed, necessarily briefly, in our Annual Report make that clear.

What the cases and policy issues outlined here also make clear is that the need for the NAACP Legal Defense and Educational Fund remains great. The challenges to the progress forged during the past are considerable. It will require all our energy and the wise disbursement of resources to preserve our democracy. You have been with us over the years as we've fought many battles. We encourage you to continue to walk with us as we fight fiercely for equality and justice for all Americans.

LDF looks back over the past 70 years with pride and satisfaction, we are inspired daily by the passion and commitment of those great men and women who blazed the trails for us. There's too much at stake to do otherwise.

THEODORE V. WELLS, JR.

DAVID MILLS



A Message from the President and Director-Counsel

JOHN PAYTON

We are grateful for the confidence our donors and volunteers have shown in us by their willingness to spend their time and treasure on the fulfillment of our mission. It is a pleasure to share with you in this report the NAACP Legal Defense and Educational Fund's recent accomplishments and challenges.

I am especially honored to thank and recognize those individuals, law firms, foundations, corporations, and organizations that have generously supported our work. Despite the tough economic times, they and you have continued to invest in us. We are grateful for the confidence our donors and volunteers have shown in us by their willingness to spend their time on the fulfillment of our mission. That steadfast support strengthens LDF's pursuit of structural change through our litigation, advocacy, and public education activities so that our victories improve the lives of as many people as possible.

This year we have had many victories to celebrate and you will read about some of them in this report. They include:

- A unanimous decision in the Supreme Court that will help ensure equal employment opportunities in fire and police departments across the country
- Our 24th annual National Equal Justice Award Dinner (NEJAD)—a special opportunity to celebrate our 70th anniversary—that netted nearly \$2 million to fund essential programs and operations, and
- Successful advocacy efforts that eliminated prison-based gerrymandering, a practice that restricts minority voting influence, in NY State.

Of course, any organization, be it non-profit or for-profit, must ensure its internal systems operate efficiently and productively. We secured a capacity-building grant of \$2 million from the Ford Foundation in 2009 that we have used to strengthen our infrastructure in significant ways:

- Undertook an organization-wide strategic-planning discussion with the Bridgespan Group during which we refined the overall mission, as well as program area missions and goals
- Re-designed and upgraded our website
- Conducted targeted trainings for staff (management trainings for attorneys and directors, media trainings for attorneys)
- Revitalized efforts to attract major and planned gifts, including the establishment of the first LDF legacy society, and more strategic use of Raiser's Edge database software for prospect/donor relationship management

Despite the considerable progress made in the larger society, we know that African Americans and other minorities—sometimes our own loved ones—continue to experience systemic racism in the form of ineffective schools, disparate law enforcement, discriminatory barriers to employment and fair housing, and limited political representation. These inequities have dire consequences for our democracy.

Today, as in the era of Jim Crow, the Legal Defense Fund is aggressively challenging fundamental problems in our society—problems that if allowed to fester, will undermine the very health and vitality of our democracy. The tasks before us are great. But so is our determination.

JOHN PAYTON

PASSING THE TORCH FOR JUSTICE



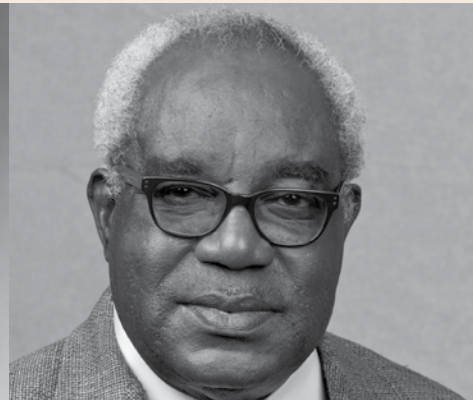
**MR. CIVIL RIGHTS:
THURGOOD MARSHALL**
LDF DIRECTOR-COUNSEL, 1940-1961

- Joined the NAACP as Assistant Special Counsel in 1936, winning such major civil rights case as *Murray v. Pearson*, which ordered the University of Maryland Law School to admit a qualified black applicant, Donald Gaines Murray.
- Founded the NAACP Legal Defense and Educational Fund in 1940.
- Directed the *Brown v. Board of Education* legal team in winning the landmark case that led to the desegregation of U.S. public schools.
- Traveled the country using the U.S. Constitution to force state and federal courts to protect the rights of African Americans.
- Became nationally known as “Mr. Civil Rights” in honor of his committed and effective legal battles for equality and justice.
- Appointed to the U.S. Court of Appeals for the Second Circuit in 1961, and appointed Solicitor General by President Lyndon B. Johnson in 1965.
- Appointed the first black Supreme Court Justice in 1967, where his extraordinary ability to see the human dimensions of legal doctrine helped shape opinions even after the Court took a conservative turn with appointees nominated by Presidents Nixon and Reagan.
- Served on the Supreme Court for 24 years until he retired in 1991 at age 83, an icon in the legal struggle for justice, equality, and civil rights.



**CRUSADER FOR CHANGE:
JACK GREENBERG**
LDF DIRECTOR-COUNSEL, 1961-1984

- Went from being the youngest member of the legal team in *Brown v. Board of Education* to assuming the reins of LDF leadership from Thurgood Marshall in 1961.
- In the 1960s, Martin Luther King, Jr. called on Greenberg and LDF to represent the Southern Christian Leadership Conference (SCLC) in all of its civil rights demonstration cases in addition to those involving sit-ins.
- Argued more than 40 cases in the Supreme Court, including *Griggs v. Duke Power Company*, a 1971 ruling barring use of employment and promotion tests that have a discriminatory impact, and hundreds more in the lower courts during his 35-year tenure with LDF.
- Challenged segregationists in Congress, as well as state and local governments, while overseeing landmark legal cases in school integration, equal employment, fair housing, and voter registration in the tumultuous 1960s and 1970s.
- Helped establish the Mexican American Legal Defense and Education Fund, Inc. (MALDEF) and other civil and human rights legal organizations in the United States and around the world.
- Chronicled LDF’s achievements in his 1994 book, *Crusaders in the Courts: How a Dedicated Band of Lawyers Fought for the Civil Rights Revolution*.
- Received a Presidential Medal of Freedom from President Bill Clinton in 2001.



**DETERMINED TO FIGHT:
JULIUS L. CHAMBERS**
LDF DIRECTOR-COUNSEL, 1984-1993

- Served as LDF’s first legal intern.
- Co-founded the first integrated law firm in North Carolina where in his first year, he filed 34 school desegregation lawsuits, 10 public accommodation lawsuits, and 10 suits challenging discrimination by public hospitals.
- Survived multiple attacks on his life, his home, and his office as a result of his fight for civil rights.
- Argued numerous landmark civil rights cases in the Supreme Court, including *Swann v. Charlotte-Mecklenburg Board of Education* (1971), which upheld busing as a remedy for school desegregation, and *Thornburg v. Gingles* (1986), a voting rights case that resulted in major increases in African-American elected officials nationwide.
- Served as President of LDF’s Board of Directors from 1975 to 1984.
- During his tenure, LDF mobilized grassroots organizations, raised awareness of the dangers posed by the Supreme Court’s backpedaling on civil rights issues, fought discrimination in New Orleans’s hospital emergency rooms, and pushed for testing of lead poisoning in poor children living in California and Texas.
- Won a pathbreaking employment discrimination settlement against Shoney’s Restaurants.

SEVEN DECADES OF LDF LEADERSHIP



A FORCE FOR JUSTICE:

ELAINE R. JONES

LDF PRESIDENT AND DIRECTOR-COUNSEL,
1993-2004

- LDF's first woman President and Director-Counsel.
- First black woman to earn a law degree from the University of Virginia.
- One of the first black women to defend death row inmates and a member of the core team that litigated *Furman v. Georgia*, a landmark U.S. Supreme Court case that temporarily abolished the death penalty in 37 states.
- Argued numerous employment discrimination cases against some of the nation's largest employers, including *Swint v. Pullman Standard*, a Title VII case in the Supreme Court.
- Served from 1975 to 1977 as a special assistant to the U.S. Secretary of Transportation William T. Coleman, Jr., a longtime LDF cooperating attorney and Board member, from 1975-77.
- Helped establish LDF's Washington, DC office, where she played a key role in increasing the diversity of federal judicial appointments and securing passage of legislative milestones such as the Voting Rights Act Amendments of 1982, the Fair Housing Act of 1988, the Civil Rights Restoration Act of 1988, and the Civil Rights Act of 1991.
- While keeping LDF focused on core work in education, voting rights, economic justice, and criminal justice, Jones broadened its litigation to include health care reform and environmental justice.
- Persuaded President Clinton to commute the sentence of Kemba Smith, a young African-American mother who became an incarcerated casualty in the "War on Drugs" when she was sentenced to 24½ years in prison after being minimally involved in a cocaine conspiracy.



SPEAKING TRUTH TO POWER:

THEODORE M. SHAW

LDF DIRECTOR-COUNSEL AND PRESIDENT,
2004-2008

- Resigned his position as a U.S. Department of Justice trial attorney in protest of the Reagan Administration's unwillingness to enforce the nation's civil rights laws.
- Directed LDF's education docket, litigated school desegregation and capital punishment cases throughout the country, and established LDF's Western Regional Office in Los Angeles in 1987.
- Argued before the Supreme Court in 1995 in *Missouri v. Jenkins*, a long-running Missouri desegregation case in which the Court signaled a retreat from its earlier cases implementing *Brown v. Board of Education*.
- Served as lead counsel for African-American and Latino students who intervened to defend the constitutionality of the University of Michigan's undergraduate admissions program in *Gratz v. Bollinger*, a companion case that helped pave the way for the Supreme Court's landmark 2003 decision in *Grutter v. Bollinger*, which resolved any doubt that universities may constitutionally adopt carefully crafted, race-conscious admissions policies to obtain the educational benefits of a diverse student body.
- Led LDF's continued efforts to confront the nation's racially discriminatory criminal justice system, fight the devastating impact of housing discrimination and concentrated poverty on education and employment opportunities, and to collaborate with other organizations to preserve voting rights gains.
- Spearheaded LDF's response to Hurricanes Katrina and Rita with impact litigation and advocacy in voting and elections, criminal justice, education, housing, and recovery programs.



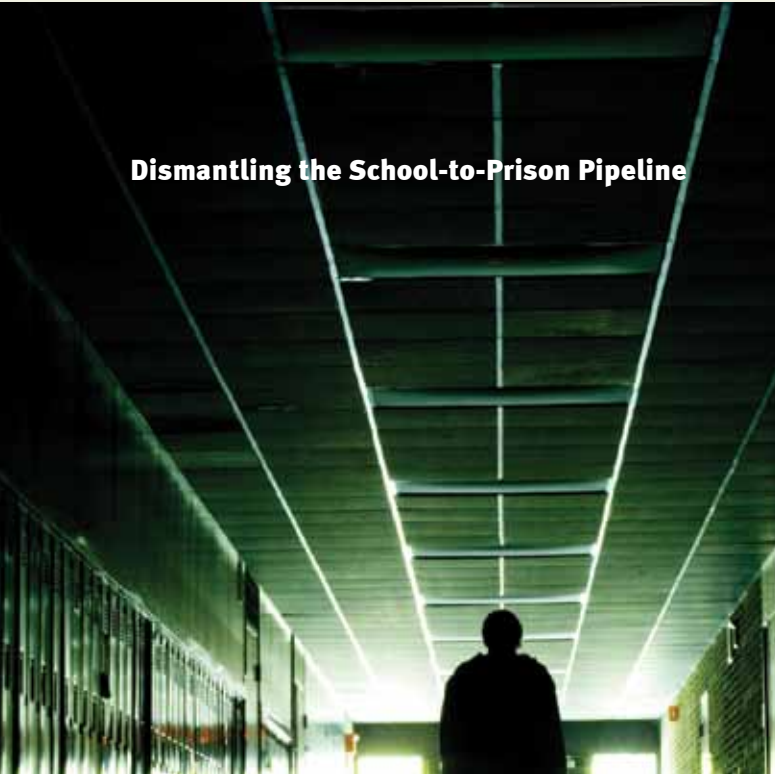
PRESSING THE FIGHT FORWARD:

JOHN PAYTON

LDF PRESIDENT AND DIRECTOR-COUNSEL,
2008 TO PRESENT

- Former partner at Wilmer Hale and served as D.C. Corporation Counsel from 1991 to 1994.
- Was an integral part of the team that secured the Supreme Court's 1982 decision upholding the constitutionality of civil rights boycotts in *NAACP v. Claiborne Hardware Co.*
- Argued *Richmond v. Croson*, a 1989 case in which the Supreme Court imposed stricter standards for government programs to redress discrimination against minority contractors in the construction industry.
- In collaboration with LDF, served as lead counsel for the University of Michigan and presented oral argument in the Supreme Court in *Grutter v. Bollinger*, a landmark 2003 victory that decisively resolved any doubt that universities may constitutionally adopt narrowly-tailored, race-conscious admissions policies to obtain the educational benefits of a diverse student body.
- Led LDF's involvement in at least 15 cases before the Supreme Court, including critical victories in the areas of voting rights in *Northwest Austin Municipal Utility District Number One v. Holder*, and employment discrimination in *Lewis v. the City of Chicago*, a 2010 case which he argued in the Supreme Court.
- Under Payton's leadership, some two dozen LDF attorneys, assisted by hundreds more cooperating attorneys throughout the country, continue to litigate cases primarily in the areas of economic justice, education, voting rights, and criminal justice.

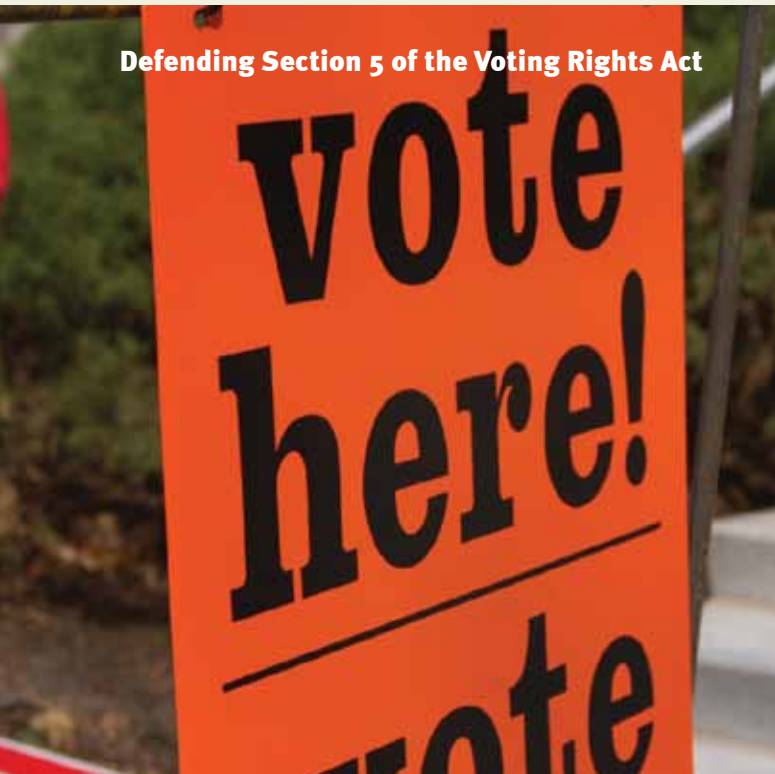
NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.



Dismantling the School-to-Prison Pipeline

EDUCATION

K-12 Diversity
Equal Access to Higher Education
Dismantling the School-to-Prison Pipeline
Federal Education Policy



Defending Section 5 of the Voting Rights Act

POLITICAL PARTICIPATION

Defending Section 5 of the Voting Rights Act
Securing the Right to Vote for People with Felony Convictions
2010 Census
Redistricting Readiness
Challenging Prison-Based Gerrymandering

PILLARS OF EQUALITY: LDF PRACTICE AREAS



Racially Biased Policing

CRIMINAL JUSTICE

Death Penalty
Jury Discrimination
Racially Biased Policing
Indigent Defense
Second Amendment Rights
Juvenile Life Without Parole



Employment

ECONOMIC JUSTICE

Fair Housing
Environmental Justice
Employment

Pre-1940s

Charles Hamilton Houston trains a small army of black attorneys at Howard University Law School who are committed to challenging the legal bulwarks of segregation. His groundwork leads to LDF's founding. LDF is set up as a legal unit of the NAACP in 1939.



1940

LDF is founded by Thurgood Marshall, its first Director-Counsel.



1940

Chambers v. Florida Supreme Court overturns the convictions—based on coerced confessions—of four young black defendants accused of murdering an elderly white man



70 YEARS FULFILLING THE PROMISE OF EQUALITY

EDUCATION PRACTICE

From its inception, LDF has been a leader in the fight to remove barriers to educational opportunity. LDF has litigated and filed *amicus curiae* briefs in numerous landmark education cases, including:

- *Brown v. Board of Education*, 347 U.S. 483 (1954) (holding that “separate but equal” schools violate the Equal Protection Clause);
- *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971) (approving busing plans as a means to effectuate school desegregation);
- *Sheff v. O’Neill*, 678 A.2d 1267 (1996) (finding that the right to an adequate education under the Connecticut constitution includes a racially integrated school environment);
- *Grutter v. Bollinger*, 539 U.S. 306 (2003) (upholding the use of race-conscious measures in university admissions to achieve diversity); and
- *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701 (2007) (recognizing that promoting diversity and reducing racial isolation in K-12 education are compelling government interests).

Due to a variety of structural barriers, African-American students and other students of color continue to be denied safe, inclusive, and high-quality educational opportunities. Through its present work inside and outside of the courts, LDF’s Education Practice Group seeks to eliminate obstacles and policies that underlie continuing racial disparities from early childhood to post-secondary education.



Ensuring a quality education for all members of our society is crucial to our nation’s prosperity, to the functioning of our democracy, and to the promise of equal opportunity for all.

1940

Alston v. School Board of City of Norfolk
Federal Appellate court orders equal pay for African-American and white public school teachers.

1944

Smith v. Allright
Supreme Court rules that the exclusion of African Americans from voting in Texas primary elections violates the Fifteenth Amendment.

1946

Morgan v. Virginia
Supreme Court strikes down a Virginia law requiring segregated seating on interstate buses. The ruling prompts the Congress of Racial Equality (CORE) to initiate the first Freedom Rides in Virginia, North Carolina, Kentucky and Tennessee to test this new ruling.



1947

Patton v. Mississippi
Supreme Court reverses a murder conviction obtained through a jury selection process that had systematically excluded African Americans from criminal juries for 30 years.

1948

Shelley v. Kraemer
Supreme Court prohibits state courts from enforcing racially restrictive housing covenants

70 YEARS FULFILLING THE PROMISE OF EQUALITY

Current areas of focus for the Education Practice Group’s work include promoting diversity and opportunity in both K-12 and post-secondary education, addressing the “School to Prison Pipeline” (including racial disparities in school suspensions, expulsions and arrests), eliminating racial disparities in student achievement, and revising the Elementary and Secondary Education Act to include core provisions that promote educational equity.

The Education Practice Group’s docket is national in scope and includes litigation and advocacy at the state and federal levels. The staff is comprised of attorneys and education policy advocates with experience in various stages of complex civil litigation, legislative advocacy, teaching, and community outreach.

CURRENT INITIATIVES

Ensuring a quality education for all sectors of our society is crucial to our nation’s prosperity, to the functioning of our democracy, and to the promise of equal opportunity for all. But millions of African-American students and other students of color continue to be denied high-quality, inclusive educational opportunities—a deprivation that results in grossly inadequate educational outcomes. As one example, while 70 percent of all U.S. students currently graduate from high school, the number is just 53 percent for students from low-income families, 55 percent for African-American students, and 58 percent for Latino students.



Damon Hewitt,
the Director of
LDF’s Education
Project.

As part of its struggle for open pathways to leadership and a quality education for all students, the Education Practice Group is currently engaged in the following advocacy efforts:

K-12 Diversity

LDF employs multiple strategies to advocate for diverse classrooms and fight the trend of *de facto* school re-segregation. First, LDF represents plaintiffs in several dozen court-ordered desegregation cases, and continues to review and monitor school district compliance with civil rights laws. Second, LDF helps to promote and defend diversity through voluntary integration initiatives. In the wake of the 2007 *Parents Involved in Community Schools* decision, LDF has provided technical assistance to schools and communities throughout the nation which are committed to promoting diversity and avoiding racial isolation in schools. In *Parents Involved*, the Supreme Court limited the ability of communities to voluntarily and consciously address racial isolation and inequality in public schools, and to bring children together across lines of difference. The decision did, however, leave open a number of methods to effectively promote diversity. LDF co-authored a manual for parents, educators, and advocates titled *Still Looking to the Future: Voluntary K-12 School Integration* and has issued guidance, fact sheets, and other materials to assist school districts in implementing those methods. LDF also advocates before federal and state legislatures and agencies on the importance of school diversity and in support of programs that promote diversity.

In addition, LDF has continued to defend diversity in the courts. In fall 2010, LDF led other civil rights organizations in filing an amicus brief before the U.S. Court of Appeals for the Third Circuit in *Doe v. Lower Merion School District*, the first voluntary integration case since *Parents Involved* to be heard by a federal appellate court.

Equal Access to Higher Education

LDF is at the forefront of efforts to ensure that higher education institutions have the tools necessary to enroll and retain a diverse group of students and faculty, and that pathways to leadership remain open to all. In the landmark 2003 Supreme Court decision in *Grutter v. Bollinger*, LDF successfully advocated for higher education admissions that are more inclusive of students of all racial backgrounds. And LDF has continued this fight by representing African-American students in *Fisher v. University of Texas at*

1948

Sipuel v. Board of Regents of Univ. of Oklahoma
Supreme Court rules that a state cannot bar a black student from its all-white law school on the ground that she had not requested the state to provide a separate law school for black students.



1949

Jack Greenberg joins LDF



1950

McLaurin v. Oklahoma State Regents
Supreme Court rules that an African-American student admitted to a formerly all-white graduate school can not be subjected to segregation practices that interfere with meaningful classroom instruction and interaction with other students.



1950

Sweatt v. Painter
Supreme Court rules that a separate law school, hastily established for black students to prevent their admission to the all-white University of Texas Law School, is unequal, and therefore unconstitutional.



70 YEARS FULFILLING THE PROMISE OF EQUALITY

Austin, the first post-*Grutter* federal challenge to the use of race in university admissions. Briefing and oral argument presented by LDF lawyers before the U.S. Court of Appeals for the Fifth Circuit were instrumental in securing a unanimous opinion from the panel upholding the diversity admissions policy at the University of Texas at Austin.

Ballot initiatives introduced in several states have attempted to limit equal opportunity programs in education, employment, and contracting. LDF is co-counsel in *Cantrell v. Granholm*, a challenge to a ballot initiative in Michigan that, among other things, prohibits the consideration of race in university admissions. The lawsuit argues that this law denies students of color the opportunity to talk about their racial experiences in their college applications, while leaving other students free to talk about other non-academic factors, thereby discriminating against students of color in the admissions process. A decision is pending from the U.S. Court of Appeals for the Sixth Circuit.

Dismantling the School-to-Prison Pipeline

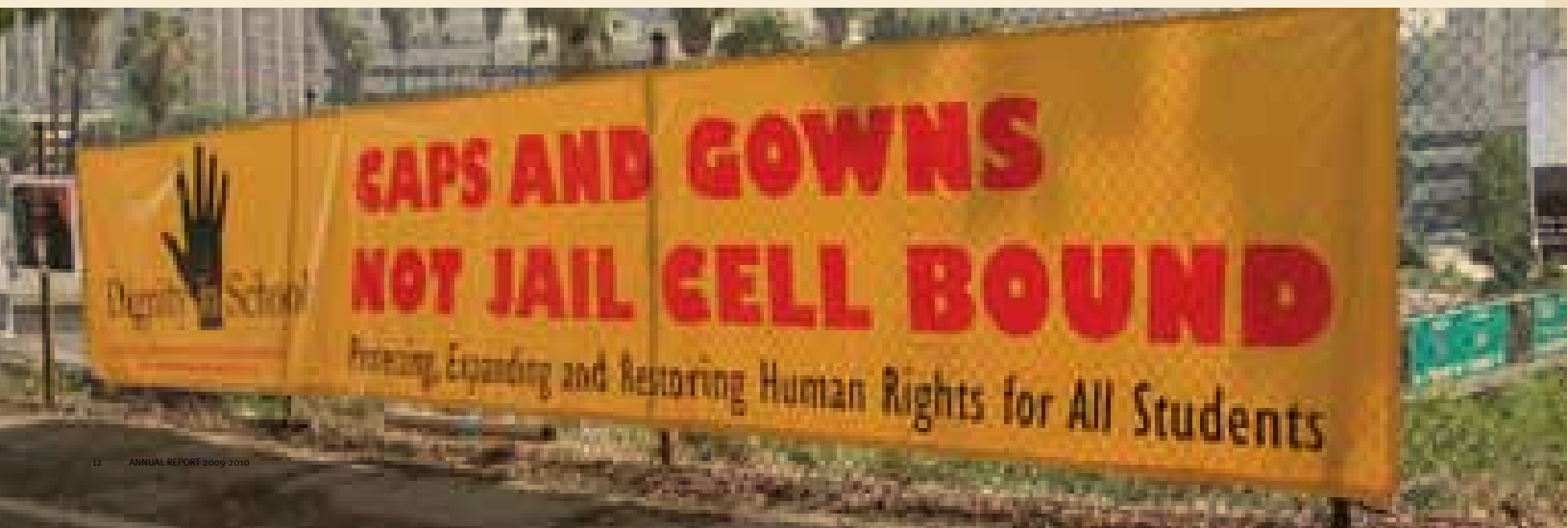
LDF's *Dismantling the School-to-Prison Pipeline*© initiative aims to end the cycle of children being pushed out of the education system and into the criminal and juvenile justice systems through the use of overly punitive school disciplinary practices and policies. In 2005, LDF published a seminal report describing this phenomenon, *Dismantling the School-to-Prison Pipeline*. In the past several years, LDF has conducted public education about the pipeline through advocacy reports, public hearings, and media campaigns, including advocacy on behalf of the Jena 6; supported legislative efforts

regarding pipeline issues; and investigated complaints of racial disparities in school discipline.

In 2010, LDF devoted significant resources to addressing the crisis. The organization played a leading role as a national partner in the Dignity in School Campaign (DSC), a collective of civil and human rights organizations focused on ending the school phenomenon of school pushout, which contributes to the crisis. Through DSC and other collaboratives, LDF engaged policymakers on Capitol Hill and in federal agencies on an agenda of education reform through sensible school discipline policy. In June 2010, LDF worked with congressional offices to develop a briefing for U.S. House of Representatives staff regarding the harms of zero tolerance school discipline policies and the linkage among our various issues. LDF also provided technical assistance and support to legal and organizing groups to address these issues, publishing articles and a book designed for legal advocates, *The School to Prison Pipeline: Structuring Legal Reform*, which has already become a widely-utilized resource.

Federal Education Policy

In 2010, LDF stepped up its involvement in federal education policy, producing position papers and submitting comments to key policymakers. Its written submissions were key to persuading the U.S. Department of Education to expand its Civil Rights Data Collection, a key source of information for education and racial justice advocates.



1950

Charles Hamilton Houston dies.

1954

Brown v. Board of Education Supreme Court, in four consolidated cases, unanimously strikes down public school segregation, overruling the long-standing "separate but equal" doctrine of *Plessy v. Ferguson* (1896).



1955

Lucy v. Adams Federal district court bars the University of Alabama from denying admission based on race, and the Supreme Court quickly affirms that decision.

1956

Gayle v. Browder Supreme Court declares segregated seating on city buses unconstitutional, thereby ending the Montgomery, Alabama bus boycott.



1957

Fikes v. Alabama Supreme Court holds that a confession used to convict an African-American defendant was obtained in violation of the Constitution.

70 YEARS FULFILLING THE PROMISE OF EQUALITY

In addition, LDF and six other national civil rights organizations whose primary constituency is comprised of African-Americans developed a platform for reauthorizing the Elementary and Secondary Education Act (ESEA), the landmark federal educational statute first enacted in 1965 and now up for renewal. The resulting product, titled *Framework to Provide All Students an Opportunity to Learn through Reauthorization of the Elementary and Secondary Education Act*, resonated widely within policy and education reform circles. The paper focused on several key policy areas that further LDF's education equity agenda:



- Providing universal access to high quality early childhood education;
- Providing universal access to highly effective teachers;
- Ensuring that school districts adhere to rigorous requirements for facilitating and funding effective parental and community engagement
- Establishing equity in the physical school facilities;
- Implementing fair, equitable, and sensible school discipline policies;
- Providing diverse learning environments that bring enhanced educational and social benefits; and
- Requiring the use of evidence- and researched-based practices to ensure that students are prepared to participate effectively in the global economy.

LDF submitted views on behalf of our own organization to the U.S. House of Representatives and Senate.

LDF has long been committed to ensuring that tests as a selection or reward device are used fairly and with a concern for their often disproportionate effect on students of color. In recent years, the standards-based accountability movement and the passage of the No Child Left Behind Act have made standardized tests a cornerstone of K-12 education. Tests can and should be used as diagnostic tools, but improper use of tests advances an unduly narrow view of accountability. When those tests are not aligned with students'

curriculum and produce racially disparate results, however, they can negatively impact access to educational opportunities. Misuse of these tests can also indirectly push students out of school altogether.

In 2010, LDF connected the issue of narrow accountability-based testing with the school discipline crisis by joining with more than a dozen other civil rights organizations to jointly release a position paper titled *Federal Policy, ESEA Reauthorization, and the School-to-Prison Pipeline*. This paper offers prescriptions for a broader approach to accountability that reduces racial disparities in discipline and can improve the quality of education for all students.

In order to build upon the successes of the past year and leverage existing and emerging partnerships, LDF added the position of Education Policy Advocate to its Washington, DC staff. This is another example of LDF's ongoing commitment to being a leader on the civil rights implications of federal education policy.

1960

Boynton v. Virginia Supreme Court rules that the Interstate Commerce Act prohibits racial discrimination in bus terminal restaurants. The ruling prompts a subsequent round of Freedom Rides by CORE and SNCC into the Deep South.



1961

Jack Greenberg becomes Director-Counsel and will win most of the 40 cases he argues before the Supreme Court.



1961

Holmes v. Danner Federal district court orders desegregation at the University of Georgia, requiring the admission of two African Americans, Charlayne Hunter and Hamilton Holmes.



1962

Meredith v. Fair Under federal court order, James Meredith finally succeeds in becoming the first African-American student admitted to the University of Mississippi.

1963

Lucy v. Adams Federal court orders Alabama officials to comply with a 1955 decree requiring desegregation of the University of Alabama. After Governor George Wallace tries to prevent desegregation, President Kennedy mobilized the National Guard and federal marshals to ensure compliance.

70 YEARS FULFILLING THE PROMISE OF EQUALITY



LDF attorneys conduct grassroots voter education and outreach for 45th Anniversary and Commemoration of passage of the Voting Rights Act in Selma, Alabama

POLITICAL PARTICIPATION GROUP

CONFRONTING THE NEW ASSAULT ON MINORITY VOTING RIGHTS

Since its founding in 1940, LDF has been a pioneer in the struggle to secure and protect the voting rights of African Americans. LDF's Political Participation Group has been involved in nearly all of the precedent-setting litigation relating to minority voting rights, including cases abolishing white primaries, creating and defending the first majority-African-American congressional and state legislative districts in several states, and eliminating barriers to black voter participation and office-holding. LDF has also been engaged in challenging discriminatory felon disfranchisement statutes, and advocating reforms such as early voting and voting rights for the disfranchised residents of the District of Columbia.

1963

State of Alabama v. Martin Luther King, Jr. Supreme Court upholds Dr. King's contempt conviction for marching in Birmingham, Alabama without a permit.



1963

Simkins v. Moses H. Cone Memorial Hospital Federal appeals court rules that federal law prohibits hospitals receiving federal funds from discriminating in the admission of patients or in granting staff privileges to doctors.

1964

Marian Wright Edelman organizes LDF's Jackson, Mississippi office, where she handles more than 120 cases generated during Freedom Summer.

1964

McLaughlin v. Florida Supreme Court strikes down as unconstitutional a Florida statute criminalizing interracial cohabitation.

1964

Hamm v. City of Rock Hill Supreme Court holds that the 1964 Civil Rights Act voids convictions of all lunch counter sit-in demonstrators.



1964

Willis v. Pickrick Restaurant Three-judge federal district court holds that the 1964 Civil Rights Act requires Lester Maddox, owner of an Atlanta restaurant and future Georgia governor, to serve African-American customers; Maddox opts to close his restaurant rather than integrate.

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LITIGATION

LDF continues to be the most prominent defender of one of America's most important and successful federal civil rights laws: the Voting Rights Act and its important federal oversight provision. Opponents have continued to attack Section 5, an essential provision of the Act as the crucial process of redistricting neared.

Shelby County, Alabama v. Holder

In the 2008-2009 Supreme Court term, LDF successfully defended Section 5, the preclearance provision of the Voting Rights Act in *Northwest Austin Municipal Utility District No. One v. Holder*. That provision requires jurisdictions with a history of discrimination to have voting changes reviewed by the U.S. Department of Justice or the D.C. District Court to ensure they are not discriminatory. In 2010, LDF continued the defense of Section 5 in *Shelby County, Alabama v. Holder*. In this case, LDF represents six African-American community leaders of Shelby County, Alabama, who believe that the strong medicine provided by Section 5 remains necessary to block and deter ongoing voting discrimination.

Farrakhan v. Gregoire

LDF is a leading voice in the struggle to secure the right to vote for people with felony convictions, the next phase of the voting rights movement. Two million African Americans are currently denied access to the right that is the foundation of all rights because of felony convictions. A staggering 13 percent of all African-American men in America are disfranchised. In some states up to one-third of the entire African-American male population is denied the right to vote.

To combat the racially discriminatory application of these laws, LDF presented oral argument in September 2010 to an *en banc* panel of the U.S. Court of Appeals for the Ninth Circuit in *Farrakhan v. Gregoire*, a challenge to Washington State's law that disproportionately denies voting rights to racial minorities with felony convictions.

Ryan Haygood, Co-Director of LDF's Political Participation Group, argued before an 11-member *en banc* panel of the Ninth Circuit in *Farrakhan v. Gregoire*, a landmark challenge to Washington's discriminatory law that disproportionately denies voting rights to people with felony convictions.



1965

Abernathy v. Alabama;
Thomas v. Mississippi
Supreme Court uses the 1964 Civil Rights Act to reverse state convictions of Deep South Freedom Riders who were testing the efficacy of court rulings issued well before the Civil Rights Act was passed.

1965

Williams v. Wallace
Federal court order allows Dr. Martin Luther King, Jr. to lead thousands in a five-day voting rights march from Selma to Montgomery, Alabama, after prior attempts had resulted in the "Bloody Sunday" police riot on the Edmund Pettus Bridge.



1965

James Nabrit III, with other LDF attorneys and civil rights leaders, draws up the historic march route from Selma to Montgomery.



1967

Cypress v. Newport News General and Nonsectarian Hospital Association
Federal appellate court rules that a federally-funded hospital violates federal law by denying staff privileges to African-American physicians.

1967

LDF establishes National Rights of the Indigent to litigate on behalf of the poor.

1968

Green v. County School Board of New Kent County
Supreme Court holds that "freedom of choice" plans are an insufficient response to court-ordered public school desegregation.

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Earlier in 2010, a three-judge panel of the Ninth Circuit struck down Washington's law as violating Section 2 of the Voting Rights Act, the first such ruling of its kind. In doing so, the Court relied upon undisputed "compelling" evidence that racial discrimination in Washington State's criminal justice system at every level—from police stops to arrests to the filing of charges to prosecution to incarceration—operated to inject inequality into the process, resulting in a disproportionate denial of the right to vote to blacks, Latinos, and Native Americans.

The evidence showed that prosecutors in King County, Washington's largest and most racially diverse county, recommend that, for the same crime, blacks serve 50 percent more time in prison than similarly situated whites. In effect, this has resulted in a "disfranchisement multiplier" that is 50 percent longer for blacks than for similarly situated whites. As a result, an astonishing 24 percent of all black men in the state of Washington, and 15 percent of the entire black population, are denied their voting rights.

Unfortunately, the *en banc* panel of the Ninth Circuit ultimately reversed LDF's earlier victory, this time by employing a new and heightened standard for Section 2 litigation in order to dispose of Plaintiffs' claims. Despite this adverse ruling, LDF remains committed to combating discriminatory disfranchisement laws using all available tools.

ADVOCACY AND PUBLIC EDUCATION

2010 Census

Count on Change 2010

Ensuring the accuracy of the 2010 Census was critical to African Americans, given that the distribution of federal funds to state, county, and municipal governments and the redrawing of political boundaries at every level of government depend on it. Unfortunately, the 2000 Census missed approximately 1 million people of color, including more than 600,000 African Americans. To help ensure a complete count in the 2010 Census, LDF, with

significant funding from the Ford Foundation, launched "Count on Change 2010," www.countonchange2010.org. This comprehensive public education campaign worked to substantially improve African-American inclusion in the 2010 Census in those places where African Americans are most likely to be undercounted.



Toward that end, LDF took a number of steps to enhance the potential for an accurate census count. They included: conducting training sessions in more than 20 states and

distributing 1,000,000 pieces of user-friendly African-American-specific census material, and focusing on reaching hard to count populations, including individuals and families displaced by the 2005 and 2008 Gulf Coast hurricanes, those displaced by the unprecedented home foreclosure crisis in minority communities, and those in prisons and jails.

1968

Quarles v. Philip Morris
Federal district court prohibits an employer's practice of relying solely on departmental rather than plant-wide seniority, a practice which forced long-time black workers to give up their seniority rights when they transferred to better jobs in previously white-only departments.

1968

Davis v. Francoise
Federal appellate court holds that Port Allen, Louisiana's expansive anti-picketing ordinance, enforced against civil rights protesters, violated the Constitution.

1968

Newman v. Piggie Park
Supreme Court recognizes that civil rights plaintiffs act as "private attorneys general" and, when they prevail, are entitled to attorneys' fees, as in this case which barred discrimination against African-American customers at a South Carolina restaurant chain.

1968

LDF provides legal support for the Poor People's Campaign in Washington, D.C.

1969

Alexander v. Holmes County Board of Education
Supreme Court rules that a Mississippi school district's foot-dragging on desegregation violates *Brown's* mandate.



1969

Thorpe v. Housing Authority of City of Durham
Supreme Court rules that public housing tenants cannot be evicted without prior notice under procedures required by federal regulatory guidance.

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Redistricting Readiness

Redrawing the Lines

Redistricting represents one of the most important events in our democracy and LDF will continue to play a major role safeguarding the rights of minority communities during the current redistricting cycle. This process provides an opportunity for officials to redraw district boundaries in ways that respond to demographic shifts and changes that have occurred over the past decade. To ensure that lines are drawn to fairly reflect minority voting strength and adhere to the requirements of the Voting Rights Act, LDF has launched "Redrawing the Lines," a strategic program that seeks to empower African Americans in the redistricting process. As part of this program, PPG has trained the lawyers, advocates, elected officials, and community leaders who will be engaged in redistricting. PPG also hosted a historic voting rights and redistricting training institute: "Protecting Minority Voting Rights & Moving Closer to Political Equality," which brought together lawyers, advocates, and leaders from throughout the country to provide comprehensive training on the role of the Voting Rights Act in redistricting, litigation, and advocacy strategies, prison-based gerrymandering, independent redistricting commissions, the role of experts, and a range of other topics. PPG attorneys have fanned out across the country participating in dozens of redistricting conferences, symposia, workshops, and panel discussions, speaking to changes in the legal standards that will govern this redistricting cycle. PPG is well-poised to carry forth its historic role safeguarding minority voting rights around the country this redistricting cycle.

This redistricting cycle presents a number of challenges as well as new opportunities for African-American communities. In those

areas of the country that have experienced minority population growth, there may be opportunities to push for the drawing of new districts that reflect the increasing diversity of our communities. Challenges may arise in the wake of Supreme Court rulings as state officials draw new district boundaries. PPG, utilizing litigation, advocacy, and DOJ's Section 5 preclearance process to safeguard minority voting rights, is ready to employ its experience and expertise to ensure that federal, state, and local boundary lines are not redrawn in ways that discriminate against minority voters.

Challenging Prison-Based Gerrymandering

LDF is committed to ending prison-based gerrymandering—a practice in which state and local governments count incarcerated persons as residents of the prison communities where they are incarcerated when drawing election district lines, despite the fact that prisoners are not integrated into those communities and are not residents there. This phenomenon artificially inflates the population count—and thus, the political influence—of the districts where prisons and jails are located, while at the same time reducing the population count and political power in areas where the prisoners actually do reside. As a result, the viability of our communities, the integrity of our democracy, and basic principles of equality suffer.

LDF's advocacy in this area has helped to raise national awareness around this issue, and, in a tremendous victory, helped to end prison-based gerrymandering in New York in August 2010. As part of this advocacy, LDF published *Captive Constituents*, a report that proved to be useful tool in educating members of the public, advocates, and legislators about the urgent need to end this practice.



1969

Sniadach v. Family Finance Corp. Supreme Court rules that state laws allowing garnishment of wages without notice or a hearing violate constitutional due process.

1969

Shuttlesworth v. Birmingham Supreme Court invalidates Birmingham's parade permit law, posthumously vindicating Rev. King's 1963 Birmingham civil rights march in the year following his assassination in Memphis.

1969

Allen v. State Board of Elections Supreme Court holds that the 1965 Voting Rights Act guarantees the opportunity to cast a write-in ballot.

1970

Carter v. Jury Commission Supreme Court approves affirmative suits by African-American citizens challenging their exclusion from the jury selection process, thereby allowing a powerful new tool to end this long-standing discriminatory practice.

1970

Turner v. Fouche Supreme Court invalidates a racially exclusionary process for selecting grand juries and school board members in Taliaferro County, Georgia.

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CRIMINAL JUSTICE PROJECT



Racial fairness in the administration of criminal justice has always been a central component of LDF's commitment to civil and human rights.

LDF has continually and vigorously opposed the death penalty and fought to expose and ameliorate the stark racial bias and disproportionality that routinely characterizes its administration. In so doing, LDF has litigated such seminal Supreme Court cases as *Furman v. Georgia*, which in 1972 temporarily ended the death penalty in the United States, and *McCleskey v. Kemp*, a narrowly unsuccessful challenge to the inappropriate role of race in death sentencing in 1987.

LDF has also led the struggle to eliminate racial bias in jury selection, the arbitrary exercise of police and prosecutorial discretion, and the War on Drugs. To that end, it filed friend of the court briefs in *Johnson v. California*, *Miller-El v. Dretke* and *Miller-El v. Cockrell*, condemning the exercise of peremptory challenges on the basis of race, and in *U.S. v. Armstrong* and *U.S. v. Bass*, encouraging the courts to give defendants with a good faith claim of selective prosecution access to information within the control of the government. LDF also successfully led the effort to overturn nearly all of the convictions in the infamous 1999 drug "sting" in Tulia, Texas. In that case, 40 African-American residents of the town, were arrested, despite the fact that no money, drugs or weapons were found—another example of the controversial "War on Drugs," which disproportionately targets minorities, and often includes racially-biased police practices and prosecutorial misconduct. LDF has been involved in the effort to eliminate the 100:1 crack/powder disparity in federal sentencing laws as well.

These and other cases leave no doubt that race continues to play a pivotal and inappropriate role in the criminal justice system. For example, African Americans make up 12 percent of the U.S. population, but comprise 40 percent of death-sentenced prisoners; one in three black men will serve time in jail or prison at some point in their lives. African Americans constitute one-third of reported crack users—but 82 percent of federal crack cocaine convictions; and

1970

Ali v. Division of State Athletic Commission
Federal district court holds that New York violated Muhammad Ali's constitutional rights when it discriminatorily stripped him of his boxing license after his conviction for refusing drafted military service.



1971

Groppi v. Wisconsin
Supreme Court rules that a criminal defendant in a misdemeanor case has the right to move a trial to another venue where jurors are not biased against him.



1971

Clay v. United States
Supreme Court strikes down Muhammad Ali's conviction for refusing to report for drafted military service.

1971

Swann v. Charlotte-Mecklenburg Board of Education
Supreme Court upholds the use of busing as a tool to desegregate public schools.



1971

Griggs v. Duke Power Company
Supreme Court rules that Title VII of the 1964 Civil Rights Act prohibits employment discrimination that result in different outcomes for blacks and whites.

70 YEARS FULFILLING THE PROMISE OF EQUALITY

more than 60 percent of prison inmates are racial and ethnic minorities. Thus, LDF's Criminal Justice Project must and will continue its numerous litigation and advocacy efforts to mitigate this deepening crisis.

Death Penalty

LDF maintains its tradition of defending death-sentenced prisoners in post-conviction litigation. Since 2003 LDF attorneys have secured reversals in five death penalty cases, presented oral arguments in federal district courts and courts of appeals, litigated evidentiary hearings, and submitted *amicus* briefs in jurisdictions throughout the country.

Furthermore, for more than 30 years, LDF's Criminal Justice Project has coordinated the nation's premiere Capital Punishment Training Conference at the Airlie Center in Warrenton, Virginia. This invitation-only event consistently draws leading capital litigators, social scientists, mitigation specialists, and other anti-death penalty advocates from across the country.

The Criminal Justice Project also publishes *Death Row USA*, a quarterly report that serves as the nation's most comprehensive source of information about death penalty cases nationwide.

Jury Discrimination

The Criminal Justice Project actively seeks to ensure that no American is denied the opportunity to serve on a jury because of his or her race, and that no American is tried, convicted or sentenced by a jury that was selected in a racially discriminatory manner. Thus, through challenges that rely on such Supreme



1971

Phillips v. Martin Marietta
Supreme Court rules that, under Title VII, an employer must demonstrate that a refusal to hire women with preschool-aged children is a bona fide occupational qualification reasonably necessary to its normal business operations.

1972

Hawkins v. Town of Shaw
Federal appellate court holds that a Mississippi town discriminated based on race in violation of the Fourteenth Amendment by providing inferior services to black neighborhoods "on the other side of the tracks."

1972

Haines v. Kerner
Supreme Court upholds the right of prisoners to bring federal court actions challenging prison conditions.

1972

Alexander v. Louisiana
Supreme Court approves the use of statistical evidence to prove racial discrimination in jury selection.

1972

Furman v. Georgia
Supreme Court rules that the death penalty, as applied in 37 states, violates the Eighth Amendment's protection against "cruel and unusual" punishment because there are inadequate standards to guide judges and juries in determining which defendants should receive a death sentence. Under revised state laws, however, the Court permits U.S. executions to resume in 1977.

1972

Wright v. Council of the City of Emporia; U.S. v. Scotland Neck City Board of Education
Supreme Court refuses to allow public school systems to avoid desegregation by creating new, mostly white or all-white "splinter districts."

70 YEARS FULFILLING THE PROMISE OF EQUALITY

Court decisions as *Batson v. Kentucky* (1986), which held that a prosecutor cannot exclude prospective jurors on the basis of race in a single case, LDF has litigated discriminatory jury-selection practices in such varied jurisdictions as Pennsylvania, Texas, Alabama, and Arkansas.

In 2010, LDF's Criminal Justice Project filed an *amicus* brief in *Berghuis v. Smith*, a Supreme Court case reviewing a Sixth Circuit decision finding that the Sixth Amendment was violated because African Americans were systematically underrepresented in Kent County, Michigan jury pools. In this case, the State of Michigan contended that any jurisdiction whose population was less than ten percent minority should be exempted from the constitutional requirement that juries be drawn from a fair cross-section of the community. Because this case posed a serious threat to the ability of people of color throughout the country to participate in the jury process, LDF's brief emphasized the importance of fair and representative juries to the integrity of the justice system. Although the Supreme Court ultimately rejected the underrepresentation claim, it also turned down Michigan's attempt to restrict the reach of the Sixth Amendment.

Racially-Biased Policing

Racial bias at the point of entry into the criminal justice system is a significant cause of the unfair criminalization and over-incarceration of people of color. For example, the War on Drugs unquestionably targets African Americans, who are 10 times more likely than their white counterparts to be imprisoned for drug offenses despite comparable levels of illicit drug activity. Additionally, police racial profiling practices have led to innumerable improper stops and searches of African Americans and Latinos, despite the fact that people of color are no more likely than whites to be found with contraband.

Class Action Challenge to Unlawful Trespass Enforcement Practices

LDF is currently challenging the unlawful and racially-biased stops and arrests of New York City Housing Authority (NYCHA) residents and their guests for alleged suspicion of trespass. On January 29, 2010, LDF and its co-counsel, the Legal Aid Society of New York and Paul, Weiss, Rifkind, Wharton & Garrison, LLP, filed *Davis v. City of New York*, a federal class action lawsuit against the City of New York and the NYCHA seeking system-

wide policy changes to end the NYPD's unlawful trespass stop and arrest practices. Class members are divided into two separate subclasses: (1) African-American and Latino public housing residents, who are unable to receive visitors freely without police harassment; and (2) African-American and Latino individuals, including public housing residents themselves, who have been unlawfully stopped or arrested for trespassing on public housing grounds.

LDF attorney Johanna Steinberg (center) with David Clunie (left), co-counsel in *Davis v. City of New York* and former Paul, Weiss, Rifkind, Wharton & Garrison attorney, and Adam Cooper, one of LDF's clients in the case.



1973

Ham v. South Carolina
Supreme Court rules that defendants are entitled to have potential jurors interrogated about whether they harbor racial prejudice.

1973

Norwood v. Harrison
Supreme Court rules that states cannot provide free textbooks to children attending private schools that were established to allow whites to avoid public school desegregation.

1973

Keyes v. School District No. 1, Denver
Supreme Court holds, in its first case addressing school segregation outside of the South, that where deliberate segregation affects a substantial part of a school system, the entire district must ordinarily be desegregated.

1973

Adams v. Richardson
Federal appellate court requires federal education officials to enforce Title VI of the 1964 Civil Rights Act, which prohibits universities, schools, and other institutions that receive federal funds from maintaining racial segregation.

1973

McDonnell Douglas v. Green
Supreme Court holds that, under Title VII, an African American complaining of unlawful discrimination is entitled to have his case heard in court if he can make the minimal showing that he was qualified for a job, applied for it, and was rejected but the job either remained open or was filled by a person of another race.

70 YEARS FULFILLING THE PROMISE OF EQUALITY

The plaintiffs in *Davis* assert that these police practices constitute intentional racial discrimination because they target public housing communities which are almost exclusively populated by people of color. Available data confirms the disproportionate impact of trespass enforcement on people of color: the rate at which African Americans are stopped for trespass in New York City is approximately 19 times higher than the rate at which white New Yorkers are stopped; the rate at which African Americans are arrested for trespass is almost 10 times higher than it is for whites. Although African Americans make up 25 percent of the New York City population, they are 61.5 percent of all trespass stops and 51.6 percent of all trespass arrests. Overall, the percentage of African-American residents in a particular New York City neighborhood has a greater impact on the rate of trespass stops than crime rates or the number of police officers deployed in that area.

LDF believes that all New Yorkers deserve the same quality of police services and the same protection of their constitutional rights, regardless of race, ethnicity, or residence, and is seeking to ensure these principles through both litigation and community engagement.

Maryland Racial Profiling *Amicus* Brief

On September 30, 2010, LDF filed an *amicus* brief in *Maryland Department of State Police v. Maryland State Conference of NAACP Branches*, supporting the Maryland NAACP’s efforts to access Maryland state police racial profiling investigation reports.

Maryland’s NAACP entered into a consent decree with the Maryland state police in 2003 to resolve litigation aimed at eradicating the racial profiling practices of Maryland state troopers. While this consent decree imposed an affirmative duty for Maryland to end racial profiling, data collected during subsequent years revealed that the rate at which Maryland state troopers stopped and searched minority motorists had remained the same or grown larger. Moreover, the state police received approximately 100 racial profiling complaints during that time period but rejected all of them as unfounded. For these reasons, the NAACP sought discovery of the state police investigation reports concerning these complaints to determine whether and to what extent the state police were in compliance with the consent decree.

In its *amicus* brief supporting the NAACP’s right to these records, LDF argued that only proper and thorough investigations of racial

profiling complaints can eradicate the unlawful police practice of disproportionately stopping and searching motorists on the basis of their race. Thus, the rejection of every single racial profiling complaint—in conjunction with continuing evidence of racial profiling—justified the disclosure of complaint investigation files to the NAACP.

The Court has yet to announce its decision in this case.

Indigent Defense

Over 45 years have passed since the Supreme Court announced, in *Gideon v. Wainwright*, that poor people charged with crimes are entitled to the assistance of counsel, but this critical mandate is often violated. The country’s poorest and most vulnerable citizens are routinely left to try to navigate the maze of the criminal justice



1973

Mourning v. Family Publication Service
Supreme Court upholds federal regulations under the Truth in Lending Act that require full disclosure to consumers of the actual cost of a loan or finance agreement.

1974

Bradley v. School Board of City of Richmond
Supreme Court ensures attorneys' fees for students and parents in this protracted litigation to desegregate public schools in Richmond, Virginia.

1975

Albemarle v. Moody
Supreme Court rules that most victims of job discrimination are entitled to back pay relief under Title VII and set additional court standards for job-related employment testing.

1975

Johnson v. Railway Express Agency
Supreme Court reaffirms that the 1866 Civil Rights Act, passed during Reconstruction, provides an independent remedy for employment discrimination.

1977

Coker v. Georgia
Supreme Court holds that capital punishment for rape is unconstitutional.

1978

Hatcher v. Methodist Hospital
Federal district court ratifies a settlement blocking the use of federal funds to build a hospital in an all-white Indiana suburb to replace a facility in downtown Gary, because it would have deprived poor and minority city dwellers of access to adequate health care.

1980

Luevano v. Campbell
Federal district court approves a settlement ending the federal government's use of a written test for entry-level hiring that disproportionately disqualified African-American and Latino applicants from employment opportunities.

70 YEARS FULFILLING THE PROMISE OF EQUALITY

system with incompetent, undercompensated, untrained, and inadequately resourced counsel. As a result, poor people accused of crimes—especially people of color—are more likely to be convicted and subjected to harsh sentences, regardless of their actual culpability. Furthermore, the absence of effective and constitutionally adequate counsel for the poor exacerbates preexisting racial disparities in the criminal justice system and heightens the distrust felt by American Americans and other underserved communities for the judicial system.

LDF has consistently advocated for pragmatic reform of indigent defense representation and sought to end policies and practices that impose a disproportionately negative burden on communities of color. These efforts include recommendations for reform to federal and state legislatures and courts, reports exposing systemic inadequacies in local indigent defense systems, litigation, and the submission of *amicus curiae* briefs.

Duncan v. State of Michigan

In 2009, LDF, along with the Constitution Project, the National Association of Criminal Defense Lawyers, the Brennan Center and co-counsel Butzel Long in Detroit, filed an *amicus* brief in the Michigan Supreme Court in support of a putative class action alleging that Michigan's provision of indigent defense services was constitutionally inadequate.

LDF argued that the systemic deficiencies alleged in three representative counties violated defendants' right to counsel under both the United States and Michigan Constitutions and created an imminent and irreparable risk that the indigent accused would be denied their right to effective representation. As a result of inadequate funding, supervision, and guidelines for assignment of attorneys, indigent criminal defendants routinely lack representation that meets even the basic standards of the legal profession, resulting in excessive bail or the unnecessary denial of bail, overcharging, wrongful convictions, guilty pleas that are not constitutionally knowing and voluntary, and excessive sentences. Moreover, African Americans bear the disproportionate burden of Michigan's failure to provide adequate indigent defense services.

The Michigan Supreme Court has denied the state's motions seeking to dismiss the case and the claims are proceeding toward adjudication.

Quinton Richmond v. District Court of Maryland

On September 12, 2008, LDF and co-counsel from Hogan & Hartson (now Hogan Lovells) in Baltimore, MD filed an *amicus* brief on behalf of a certified class challenging Maryland's failure to provide indigent defendants with legal counsel when they first appear before a District Court Commissioner, a hearing where a determination of probable cause is made as well as a bail assessment. The Maryland Circuit Court issued a judgment denying plaintiffs' claims. While the case was on appeal to the Court of Special Appeals, the Maryland Court of Appeals, the state's highest court, agreed to hear the case.

LDF argued that appointment of counsel was mandated at Bail Commission Hearings pursuant to the Maryland state statute, as well as the U.S. Constitution and the Maryland Declaration of Rights. LDF also pointed out that African Americans are disproportionately and detrimentally affected by Maryland's failure to appoint counsel at the commencement of criminal proceedings. While African Americans comprise 64 percent of Baltimore's population, they make up 87 percent of defendants in pre-trial detention facilities. Due to income disparities, African Americans are more likely to languish in pre-trial jails and, unable to afford proper representation, rely heavily on state appointed counsel.

The Maryland Court of Appeals sent the case back to the Circuit Court. In October 2010, the Circuit Court announced its decision agreeing with LDF and holding that indigent defendants have the right to counsel at bail hearings. If affirmed, this important ruling is expected to apply to all of Maryland.

Non-Litigation Advocacy

LDF is also a key partner in the National Indigent Defense Collaborative (NIDC), a group of national organizations working collectively to overhaul the indigent defense system nationwide through legislative reform and/or impact litigation. As part of the NIDC, LDF and its partner organizations make recommendations to state legislators and courts, provide technical assistance to local jurisdictions, and coordinate *amicus* strategies.

LDF attorneys also spoke at the U.S. Department of Justice (DOJ) National Symposium on Indigent Defense in Washington, DC in 2010. LDF was invited to address the ways in which public defenders can expand their capacity for advocacy and systemic reform through collaborations with civil rights organizations and private counsel. Staff used this speaking opportunity to educate

1982

Enmund v. Florida
Supreme Court bans capital punishment for a defendant who participated in a robbery, during which, a murder was committed, because the defendant did not take or attempt to take a life, or intend that lethal force be employed.

1983

Major v. Treen
Federal district court finds that congressional districts in the New Orleans area had been gerrymandered to limit black voting strength following the 1980 census.

1983

Bob Jones University v. U.S.; Goldsboro Christian Schools v. U.S.
Supreme Court appoints then LDF Board Chair William T. Coleman, Jr. as a "friend of the court" and upheld his argument against granting tax exemptions to religious schools that discriminate.



1984

Julius L. Chambers named Director-Counsel of LDF



1986

Ford v. Wainwright
Supreme Court holds that the Eighth Amendment prohibits states from inflicting the penalty of death upon a prisoner who is insane.

1986

Thornburg v. Gingles
Supreme Court affirms that at-large election of state legislators in North Carolina illegally diluted black voting strength in violation of the Voting Rights Act, and it establishes basic principles for interpreting the 1982 amendments to the Voting Rights Act, which result in major increases in African-American elected officials nationwide.

70 YEARS FULFILLING THE PROMISE OF EQUALITY



others on LDF's litigation partnership with the Legal Aid Society of New York in *Davis v. City of New York*, as discussed above, and to demonstrate how this working relationship is a powerful model for reform.

Juvenile Life without Parole

The United States is the only country in the world where children can be sentenced to lifetime imprisonment without the possibility for parole. LDF opposes juvenile life without parole sentencing because it fails to take into account the rehabilitative capacity of all children, because children of color are disproportionately represented among those who receive such permanent sentences, because scientific evidence establishes that fundamental mental, emotional and psychological development continues until adulthood, and because all youth face significant difficulties in processing complex, criminal proceedings.

In its effort to expose the problems with these sentences and support the effort to abolish juvenile life without parole, LDF published *No Chance To Make It Right: Life Without Parole for Juvenile Offenders in Mississippi*, and is developing legal strategies through clemency petitions and post-conviction challenges to overturn juvenile life without parole sentences. LDF has also supported legislative reform of juvenile life without parole sentences in various states.

Graham v. Florida and Sullivan v. Florida

In 2009, LDF along with the National Association of Criminal Defense Lawyers and the Charles Hamilton Houston Institute for Race & Justice, filed an *amicus* brief in the United States Supreme Court cases *Graham v. Florida* and *Sullivan v. Florida*, challenging the constitutionality of life imprisonment without parole for child offenders convicted of non-homicide offenses.

LDF's brief explained that such sentences fail to comport with the requirements of the Eighth Amendment because the unique characteristics of youth can critically undermine defense counsel's ability to effectively assist their teenaged clients, and that the compromised attorney-client relationship increases the likelihood of unreliable sentencing outcomes that fail to accurately reflect culpability and guilt.

Graham and *Sullivan* were argued in the Supreme Court in November of 2009, and in 2010, the Supreme Court announced its decision. It agreed with LDF that such sentences violated the Eighth Amendment and, in so doing, expressly cited the concerns raised by LDF's *amicus* brief.

Second Amendment Rights

McDonald v. City of Chicago

McDonald v. City of Chicago was a challenge to Chicago's firearms regulations, which prohibited the ownership and use of handguns within city limits. The question presented was whether the Second Amendment right to own and use firearms for self-defense, as established by the Supreme Court in *District of Columbia v. Heller*, is applicable to state and local governments.

One of Plaintiffs' arguments was that the Second Amendment right is applicable to state and local governments through the long-dormant Privileges or Immunities Clause of the Fourteenth Amendment. LDF filed an *amicus* brief in support of neither party, arguing that the Supreme Court should, instead, analyze the question presented through the lens of the Due Process Clause of the Fourteenth Amendment, so as not to disturb longstanding case law guaranteeing civil rights protections. The case was decided in June 2010. The plurality opinion by Justice Alito cited LDF's brief, and, in ruling for Plaintiffs, agreed that the question of incorporation should be resolved under the Due Process Clause.

1987

McCleskey v. Kemp
Supreme Court narrowly rejects a challenge to the constitutionality of Georgia's death penalty, disregarding LDF's compelling evidence that racial discrimination infects every aspect of the state's capital punishment system.

1989

Lorance v. AT&T Technologies
Supreme Court holds that Title VII's statute of limitations bars a challenge to a discriminatory seniority system. This holding will be overturned by the 1991 Civil Rights Act.

1990

Missouri v. Jenkins
Supreme Court holds that federal courts can set aside state limitations on local taxing authority in order to ensure sufficient funds for Kansas City's school desegregation plan.

1991

Chisom v. Roemer; Houston Lawyers Association v. Attorney General
Supreme Court holds that the Voting Rights Act applies to the election of judges.

1991

Board of Education v. Dowell
Limiting the scope of prior rulings, the Supreme Court holds that, in determining whether to dissolve a school desegregation decree, courts should consider whether school districts have complied in good faith and whether the vestiges of past discrimination have been eliminated to the extent practicable.

1991

Matthews v. Coye; Thompson v. Raiford
LDF attorneys compel California, Texas, and the federal government to enforce and implement federal regulations calling for testing of poor children for lead poisoning.

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ECONOMIC JUSTICE PRACTICE

From its earliest days LDF has fought for African Americans to be able to work, live, and thrive without racially-imposed barriers. Today, LDF's work in economic justice challenges discrimination in housing, employment, lending, and environmental protection, and addresses other barriers to economic opportunity for all Americans.

Crusaders for Economic Justice

From its earliest days—under the leadership of master civil rights strategists Charles Hamilton Houston and Thurgood Marshall—LDF has fought for African Americans to be able to work, live, and thrive without racially-imposed barriers. In 1940, in one of our first cases, *Alston v. School Board of City of Norfolk*, LDF won a watershed decision requiring pay equality between black and white teachers. This case marked the beginning of a case-by-case attack that culminated in the abolition of legal racial segregation in *Brown v. Board of Education* in 1954.

Similarly, LDF's efforts to tear down racial barriers to adequate housing and employment trace back to its beginnings. In 1948, LDF successfully challenged the constitutionality of racially restrictive covenants on home sales in the Supreme

1993

Elaine R. Jones becomes President and Director-Counsel of LDF



1994

Lawson v. City of Los Angeles; Silva v. City of Los Angeles Court approves settlements that lead to the end of the Los Angeles Police Department's discriminatory use of police dogs in minority neighborhoods.

1994

Missouri v. Jenkins Supreme Court holds that aspects of the remedy in a long-running desegregation case in Kansas City exceed the scope of the proved legal violation.

1996

Sheff v. O'Neill Connecticut Supreme Court rules that the State of Connecticut is obligated to provide school children with an equal educational opportunity, finds the State liable for maintaining racial isolation in the Hartford area, and orders the legislative and executive branches to propose a remedy.



1996

Labor/Community Strategy Center v. MTA Federal court approved a settlement of a class action on behalf of minority bus riders who challenged the discriminatory impact of Los Angeles Metropolitan Transportation Authority's proposal to raise fares and eliminate monthly passes while pouring millions into construction of rail lines for white suburban commuters.

70 YEARS FULFILLING THE PROMISE OF EQUALITY

Opposite page

LDF attorneys with Chicago firefighters at the U.S. Supreme Court after the decision in *Lewis v. Chicago*. In May 2010, the Supreme Court ruled unanimously in favor of LDF and its clients, ruling that the City of Chicago could be held accountable for each and every time it used a hiring practice that arbitrarily blocked qualified minority applicants from employment.

Court case, *Shelley v. Kraemer*. Twenty years later, our attorneys litigated the seminal Supreme Court case *Griggs v. Duke Power* in 1970, establishing that Title VII of the 1964 Civil Rights Act prohibits not only intentional discrimination but also “artificial, arbitrary, and unnecessary barriers to employment” that result in different outcomes—or in legal terms, a disparate impact—for blacks and whites.

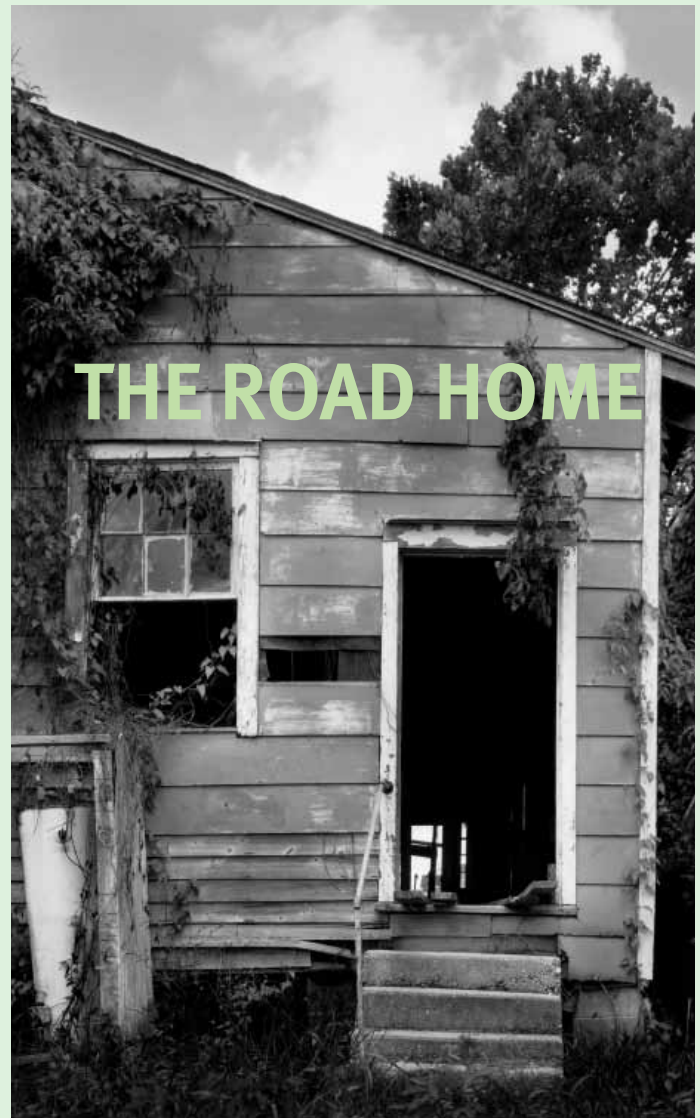
Today, LDF's work in economic justice challenges discrimination in housing, employment, lending, and environmental protection, and addresses other barriers to economic opportunity for all Americans.

Fair Housing

In the area of fair housing, the Economic Justice Group's cases include aiding five individuals representing a class of more than 20,000 African-American homeowners, whose homes were destroyed by Hurricane Katrina, and two fair housing organizations in New Orleans who are trying to secure fair compensation from the federal Department of Housing and Urban Development.

LDF's lawsuit was *Greater New Orleans Fair Housing Action Center v. HUD*, filed in November 2008 in the U.S. District Court for the District of Columbia. It alleges that the Road Home Program, Louisiana's Hurricane Katrina \$11 billion federally-funded recovery program, the largest housing redevelopment program in U.S. history, discriminates against African-American homeowners in New Orleans. LDF argued that because the program relies, in part, on pre-storm market values for the participants' homes, black homeowners systematically receive lower grants to repair their homes.

On September 22, 2010, the U. S. Court of Appeals for the District of Columbia issued an injunction ordering that funds from the Road Home Program not be spent until the displaced homeowners have had an opportunity to show that Louisiana and HUD have distributed recovery funds in a discriminatory manner. Previously,



1999

Campaign to Save Our Public Hospitals v. Giuliani
New York Court of Appeals barred an attempt by New York City's mayor to privatize public hospitals, and thereby cut hospital services for the poor.

2000

Smith v. United States
President Clinton commutes the sentence of Kemba Smith, a young African-American mother who received a mandatory minimum sentence of 24½ years in prison—even though she was a first-time offender—after her abusive boyfriend led her to play a peripheral role in a cocaine conspiracy.



2001

Easley v. Cromartie
Supreme Court rules that the North Carolina majority-minority district from which Mel Watt was elected to Congress was not an illegal racial gerrymander.

2003

Gratz v. Bollinger; Grutter v. Bollinger
Supreme Court holds that narrowly-tailored, race-conscious university admissions policies are constitutional.



2004

Theodore M. Shaw becomes Director-Counsel of LDF.



2004

Banks v. Dretke
Supreme Court overturns the death sentence of Delma Banks, Jr. and remanded for reconsideration in light of the prosecution's withholding of impeachment evidence related to two principal witnesses.



70 YEARS FULFILLING THE PROMISE OF EQUALITY

a lower court had ordered Louisiana to stop using a formula based on pre-storm home values to calculate any future awards because it found the formula likely has a discriminatory impact on African-American home owners. But the same court in an earlier decision held that it could do nothing for homeowners who had already received awards based on the apparently discriminatory pre-storm formula. The September 22 order helps ensure that the funds that have yet to be disbursed will be available to address the discrimination identified by the plaintiffs affecting homeowners who already received awards.

The State of Louisiana was ordered to temporarily freeze disbursement of surplus funds until the U.S. Court of Appeals for the District of Columbia decides whether the lower court may grant relief to homeowners who previously received grants based upon the pre-storm value of their homes. This provides the opportunity for all homeowners to receive grants based on a non-discriminatory formula.

Environmental Justice

Communities of color are far less likely to enjoy healthy, clean neighborhoods because state and municipal governments are more likely to allow waste facilities, power plants, manufacturing facilities, and other sources of pollution to be built within or near their boundaries. LDF collaborates with other members of the growing environmental justice movement to combat unequal enforcement of environmental protection laws and regulations and increase the participation of communities of color in agenda-setting and policy-making as we rethink how to create and sustain healthy, green communities.

In *Holt v. City of Dickson et al*, LDF represents twelve members of an African-American family who brought claims against government officials and private companies for polluting the family's groundwater with toxic chemicals. Government officials knew as early as 1988 that the Holt family's well water was contaminated with toxins that had leaked into the water supply from an adjacent landfill. Despite test results showing contamination at levels approaching thirty times the Environmental Protection Agency standard, government officials told the Holt family that its water was safe to drink. When these same government officials later learned that up to a dozen white families in the area also had contaminated water supplies,



LDF client Sheila Holt with former LDF Director-Counsel and President Theodore M. Shaw in Dickson, Tennessee.

those families were immediately warned to stop using their well water and were provided an alternate water supply within 48 hours. LDF alleges that the disparate treatment of white and black families violated Title VI of the 1964 Civil Rights Act and the Fourteenth Amendment. The Holt family has also alleged that the original decision by the City of Dickson to place the landfill in a nearly all-black community in 1968 was intentionally discriminatory.

Employment

Lewis v. Chicago

In May 2010, the Supreme Court ruled unanimously in favor of LDF and its clients in *Lewis v. City of Chicago* that the City of Chicago could be held accountable for each and every time it used a hiring practice that arbitrarily blocked qualified minority applicants from employment.

2005

Bad Times in Tulia, Texas
Monetary settlement is awarded after it was brought to light that nearly 10% of the African-American community of Tulia, Texas had been arrested in a drug “sting” operation based on unreliable testimony from a lone undercover agent with a checkered past.



2005

Rideau v. Louisiana
After 44 years of incarceration, a jury of ten women and two men (four of whom were black) finds Wilbert Rideau guilty of manslaughter and not murder, which permitted his immediate release based on the time he already had served. This was Rideau’s fourth trial after three previous death sentences by all-white, all-male juries were overturned by federal courts.



2005

Gonzales v. Abercrombie & Fitch Stores
Federal district court approves a consent decree requiring significant corporate reforms to promote workforce diversity, as well as more than \$40 million in relief to rejected applicants and employees who alleged racial and gender discrimination.

2006

Geier v. Bredeesen
District court grants the joint motion of LDF and the State of Tennessee to end nearly four decades of court-ordered desegregation of public colleges and universities in recognition of the state’s progress in creating a higher education system that preserves access and educational opportunity for black and white students alike.

70 YEARS FULFILLING THE PROMISE OF EQUALITY

The Court reversed the ruling of the U.S. Court of Appeals for the Seventh Circuit that plaintiffs, a class of 6,000 black applicants who challenged Chicago’s firefighter hiring exam as discriminatory, had failed to file timely charges of discrimination with the Equal Employment Opportunity Commission (EEOC). The Seventh Circuit’s ruling came after a federal district court found the City of Chicago liable for illegal discrimination and ordered a comprehensive remedy. The case now is back in the lower court to determine the availability of a remedy for the illegal hiring practices.

Upshaw v. Ford Motor Company

A settlement was reached in *Upshaw v. Ford Motor Company*, a case in which LDF client Carolyn Upshaw initially filed charges against her employer, the Ford Motor Company, with the Equal Employment Opportunity Commission (EEOC) in August 2003, charging that she had been passed over for a promotion because she is an African-American woman. Ford told the EEOC that Upshaw did not qualify for a promotion based on the company’s criteria, and the charges were dismissed.

It was revealed that Ford inaccurately reported the qualifications of the white men who were promoted and that the company had promoted workers who did not meet their stated criteria and thus denied Upshaw a promotion for other reasons. Denied another promotion, Upshaw filed again with the EEOC, charging that she was being retaliated against for her initial EEOC complaint. Ford claimed that none of Upshaw’s superiors knew of her discrimination charges, but later evidence revealed that her supervisors had known. In November 2004, Upshaw sued Ford for racial discrimination and retaliation. Months later, she was fired and she added retaliatory termination to her claims. Her case was dismissed in 2008 after a federal judge ruled that no jury could find that Ford had unlawfully discriminated and retaliated against her. LDF represented Upshaw in her appeal to the U.S. Court of Appeals for the Sixth Circuit in 2009 on the grounds that the evidence showing that Ford gave inaccurate statements to the EEOC and that Upshaw was treated differently could prove discrimination. The Sixth Circuit agreed, and Upshaw’s retaliation claim was sent back to district court. The case settled in November 2010.

Hithon v. Tyson Foods

In October 2010, LDF filed a friend-of-the-court brief on behalf of John Hithon in *Hithon v. Tyson Foods*. Hithon worked at a Tyson Foods plant in Gadsden, Alabama for 13 years. Despite his experience, when two supervisor jobs opened up at his plant, he was passed over, remaining stuck in lower management. Instead, two white men from other plants were hired. Hithon believed his supervisor’s failure to promote him resulted from racial prejudice and filed an employment discrimination claim against Tyson Foods. Part of the evidence backing Hithon’s claim was testimony confirming his white boss’s habit of referring to him, an African-American man, using the derogatory term “boy.”

Hithon’s claims were first heard in an Alabama federal district court in 2002. The jury found in his favor, awarding him \$1 million in relief. Hithon’s employer appealed the jury’s verdict to the U.S. Court of Appeals for the Eleventh Circuit. The Eleventh Circuit ordered a retrial in 2005, based in part on its determination that an adult man being called “boy” alone was not discriminatory unless it was preceded by “black” or “white.” Hithon appealed to the Supreme Court, which unanimously reversed the Eleventh Circuit’s decision, citing context, local custom, and historical usage as evidence of the word being discriminatory. Following the Supreme Court’s reversal, yet another Alabama jury ruled in Hithon’s favor in 2007, only to be overturned by the Eleventh Circuit in September 2010. In that opinion, despite evidence that Hithon’s supervisor had used the word “boy” in “mean” and “extremely condescending” way, the Eleventh Circuit concluded that the slurs were “ambiguous stray remarks not uttered in the context of the decisions at issue.”



2007

Parents Involved in Community Schools v. Seattle School District
Supreme Court strikes down voluntary integration plans in Seattle, Washington and Jefferson County, Kentucky, but affirms the constitutionality of school district efforts to promote diversity and reduce racial isolation.

2008

Williams v. Allen
Federal appellate court vacates the death sentence of a 20-year Alabama death row inmate holding first, that he was entitled to present his claims that the prosecutor unconstitutionally struck blacks from the jury; and second, that his attorney failed to investigate mitigating evidence of the extreme abuse he suffered as a child.

2008

Wright v. Stern
Federal district court approves a class action settlement requiring injunctive relief and damages of more than \$21 million due to systemic employment discrimination by the New York City Parks Department against its African-American and Latino employees.



2008

Herring v. Marion County Election Board
Settlement of a lawsuit filed in Indiana state court to ensure that eligible voters with property subject to foreclosure proceedings or evictions would not have their right to vote challenged during the 2008 election based upon their foreclosure status.

70 YEARS FULFILLING THE PROMISE OF EQUALITY

LDF's friend-of-the-court brief supported Hithon's petition for rehearing *en banc* before the full Eleventh Circuit. In its brief, LDF represented a number of notable civil rights leaders, including the Hon. U.W. Clemon, Alabama's first black federal judge; former United Nations Ambassador and Congressman Andrew Young; Rev. Joseph Lowery; and numerous other contemporaries of Rev. Martin Luther King, Jr., each of whom is a storied civil rights activist in his or her own right. All of the *amici* heard the racially coded term "boy" directed toward themselves, members of their families and friends, or toward other ministers and pioneers of the Civil Rights Movement. LDF's brief drew upon historical instances of black men being called "boy" to insult and demean them. It also notes the term has been derogatorily used to refer to African-American men since the time of slavery.

Other Supreme Court and Appellate Advocacy

LDF filed a friend-of-the-court brief in *ATT Mobility LLC v. Vincent and Liza Concepcion* in October 2010, addressing the lawfulness of efforts by corporations to entirely ban class-action litigation. When the Conceptions filed a class action challenging AT&T Mobility's allegedly fraudulent practices, the company contended that its standard agreement with cell-phone users barred class-wide proceedings. Applying California contract law, the U.S. Court of Appeals for the Ninth Circuit held that AT&T Mobility's class-action ban was invalid because it insulates the company from the full scope of its potential liability. AT&T Mobility claims the Ninth Circuit's application of California contract law was preempted by federal law.

In its brief, LDF stressed the significant adverse implications of class-action bans for civil rights litigation. Class actions remain an indispensable tool for promoting equal opportunity, and bans could prove extremely detrimental in many spheres where class actions have been successful the past two decades in redressing civil rights violations. LDF's brief illustrates this by surveying recent cases successfully challenging discrimination by large employers, mortgage lenders, insurers, and vehicle financing companies.

Recognizing the important public interests served by class actions, courts have held that class-action bans are unenforceable under the generally applicable laws of at least 20 states. The Federal Rules of Civil Procedure, federal anti-discrimination statutes, and even the Supreme Court have all recognized the importance of class actions, especially in the civil rights context.

In August 2009, LDF also filed an *amicus* brief in support of Kenny A. in *Sonny Perdue, Governor of Georgia, v. Kenny A.*, a precedent-setting case safeguarding the rights of foster care children in the State of Georgia. At issue in the Supreme Court was whether the attorneys' fee award to counsel for the prevailing class of foster care children could be enhanced based on the quality of performance and results obtained. LDF argued that Congress intended for the same standards to govern civil rights fees awards as apply in antitrust cases, where courts have long awarded enhancements for extraordinary performance and results; that Congress has repeatedly rejected proposals that would have expressly prohibited enhancements; and that federal courts have developed workable criteria that reserve enhancements for litigation that substantially furthers Congress's objective of vigorous civil rights enforcement. Rejecting LDF's arguments by a narrow 5-4 majority, the Supreme Court ruled in favor of Perdue on April 21, 2010.

Also, in August 2009, LDF filed a friend-of-the-court brief in *H.B. Rowe Company, Inc. v. W. Lyndo Tippet*, defending the constitutionality of North Carolina's Minority and Women Business Enterprise Program for state-funded road construction projects. The North Carolina General Assembly reauthorized this program in 2006, based on its considered policy judgment that historical and ongoing discrimination continues to impede access to contracting opportunities for minority- and women-owned businesses in the state's construction industry.

2009

Northwest Austin Municipal Utility District No. 1 v. Holder
Supreme Court declines a municipal utility district's plea that Section 5 of the Voting Rights Act should be struck down as no longer constitutionally necessary to safeguard minority voting rights.



2010

Lewis v. City of Chicago
Supreme Court rules unanimously that Chicago could be held accountable for each and every time it used a hiring practice that discriminatorily blocked qualified minority applicants from employment as firefighters.



2010

Farrakkan v. Gregoire
Federal appellate court leaves in place the State of Washington's felon disenfranchisement law, even though it results in the denial of the right to vote to Latinos, African Americans, and Native Americans on a racially discriminatory basis.

70 YEARS FULFILLING THE PROMISE OF EQUALITY

LDF's brief highlighted severe obstacles to fair competition that have made it more difficult to eradicate discrimination in the construction industry than in many other sectors of the economy. In North Carolina and throughout the country, the primary method of filling jobs and awarding contracts in the construction industry has been and continues to be word-of-mouth dissemination of information through racially exclusive social and familial networks. As a result, minority entrepreneurs have been substantially limited in their opportunities to start and develop successful construction firms.

In a July 2010 opinion, the U.S. Court of Appeals for the Fourth Circuit upheld key aspects of North Carolina's program to remedy discrimination in the construction industry.





THE WASHINGTON, D.C. OFFICE

LDF's Washington, D.C. office focuses on civil rights legislation and policy matters within our four practice areas—education, economic justice, political participation, and criminal justice. Working in collaboration with our colleagues in New York, our advocacy includes intensive policy research, strategic thinking, partnering with coalitions, and forging strong relationships with Congress and agencies responsible for civil rights enforcement. As civil rights litigators and researchers, we bring knowledge and expertise to civil rights issues pending before the federal government.

In a number of areas this year, LDF worked with members of Congress to strengthen civil rights laws. We worked with the Committee on the Judiciary in the House of Representatives on proposals to update the Fair Housing Act of 1968. Our recommendations were based largely on issues identified by our National Commission on Fair Housing and Equal Opportunity which convened during the 40th anniversary year of the Act.

In the access to justice arena, LDF continued to promote legislation to overturn the Supreme Court's opinions in *Ashcroft v. Iqbal* and *Bell Atlantic Corp. v. Twombly*, which requires a stronger showing by plaintiffs at the complaint stage without the benefit of evidence. As part of its education and outreach around this topic and following LDF's testimony before the House and Senate on these cases, LDF wrote an issue paper on the perils of *Iqbal* and *Twombly* for the American Constitution Society. LDF also played a role in considering how Congress should properly respond to the Supreme Court's decision in *Gross v. FBL Financial Services*, which held that a key art of Title VII's framework for proving employment discrimination was not applicable in cases brought under the Age Discrimination in Employment Act. The ruling has grave implications for employees seeking to vindicate their rights under many civil rights statutes as well.

Finally, in the area of criminal justice, an important victory was secured with the passage and signing of the Fair Sentencing Act of 2010. This legislation reduced the disparity in sentencing for possession of crack and powder forms of cocaine from 100:1 to 18:1. Although LDF has long supported completely eliminating the disparity, this legislation was a significant victory in addressing racial bias in the federal sentencing system.

LDF continues to prepare for the Congressional reauthorization of the Elementary and Secondary Education Act (formerly known as No Child Left Behind). We are leading a coalition called the Dignity in Schools Campaign to ensure that the reauthorized bill appropriately addresses issues relating to the school-to-prison pipeline problem. Toward this end, we conducted a lobbying day in September in which we coordinated meetings between advocates from around the country and legislators and their staffs. We also participated in a national conference in September sponsored by the Departments of Justice and Education, titled "Civil Rights and School Discipline: Addressing Disparities to Ensure Equal Educational Opportunity." We continued to meet with education officials within the Administration, providing guidance on a host of issues, including reauthorization and other policy concerns.

LDF's Washington Office maintained a watchful eye over the work of key civil rights enforcement agencies. In this time of huge racial disparities in national unemployment rates, we applauded the efforts of the Equal Employment Opportunity Commission, headed by LDF's former Associate Director-Counsel Jacqueline Berrien, to examine how employment discrimination is contributing to those disparities. We pressed for robust fair housing and fair lending policies under the Department of Housing and Urban Development and the new Consumer Financial Protection Bureau. Finally, we monitored activity in a host of civil rights areas undertaken by the Civil Rights Division of the Department of Justice.



The Washington office maintained its longstanding commitment to monitoring the appointment of judges to the federal courts in order to ensure a diverse and fair-minded judiciary. 2010 presented substantial challenges for the judicial selection process. For most of the year, there were over 100 vacancies on the federal courts. Among this number were dozens of vacancies designated “judicial emergencies” by the Administrative Office of the U.S. Courts. Substantially contributing to the vacancy crisis was the Senate’s slow pace in confirming federal judges. At the end of the first two years of the Obama Administration, the Senate had confirmed only 60 district and appellate court nominees; this number is in stark contrast to the 100 judges confirmed in the first two years of President George W. Bush’s Administration. LDF sought to publicize the impact of the judicial vacancy crisis on civil rights cases, and to encourage the Senate to move swiftly to confirm the dozens of pending judicial nominees. We applauded the Senate’s confirmation of LDF cooperating attorney, Carlton Reeves, to the U.S. District Court for the Southern District of Mississippi. Although Mississippi has the largest percentage of African Americans of any state in the nation, it has had only one African-American federal judge in its history; Henry Wingate was appointed over twenty-five years ago. Judge Reeves will now be the second African-American judge in the state.

The increasing volatility of the political environment points up LDF’s critical role in our nation’s capital. Our strategies may change depending upon who is in power, but our fundamental mission remains the same—to promote strong civil rights laws and the robust enforcement of those laws. Progress in civil rights should never have to wait until the next election.



SCHOLARSHIP PROGRAMS

In 1964, Thurgood Marshall's vision for financing the educations of young African-American *change agents* was made concrete through the establishment of the Herbert Lehman Education Fund and the Legal Internship and Fellowship Program (the "Fellowship Program"). The Herbert Lehman Fund and the Fellowship Program were tasked with combating the racism and poverty that prevented young African-American students from achieving the promises of opportunity articulated in *Brown v. Board of Education*. Marshall believed that if African-American students were equipped with financial and physical access to higher education, the intelligence and energy they would bring to the classrooms of the colleges and universities of the formerly segregated South could be honed and directed towards advancing the goals of the civil rights movement. Eight years later, as a successor to the Fellowship Program, LDF incorporated the Earl Warren Legal Training Program to seed and nurture the careers and educations of attorneys and law students dedicated to civil rights and public interest work.

In its first year, the Lehman Scholarship was awarded to Marian Wright Edelman, Julius L. Chambers, and 31 other African-American students. No one could have envisioned the remarkable contributions that these two *change agents* would make: Edelman would go on to found the Children's Defense Fund and Chambers would serve as LDF's third Director-Counsel. Nor could anyone anticipate that in the intervening decades, the Lehman and Warren Scholarship Programs would become more vital than ever before.

Thanks to the considerable generosity of our donors over the years, Lehman and Warren scholarships have provided over \$19 million dollars in financial support to undergraduates and law students over nearly five decades, making it possible for highly qualified students to attend the nation's most competitive colleges, universities, and law schools. Indeed, a full third of all LDF scholarship recipients have earned graduate degrees. Scholarship Program alumni include members of Congress, judges in the nation's courts, and heads of nationally prominent organizations serving the public interest.

LDF's new Director of Scholarship Programs, Karen Thompson, has made changes focused on reaching out to a wider pool of applicants by making technological advancements a priority and creating an active community from the nearly 4,000 alumni who have benefitted from LDF's scholarship awards.

Karen has spearheaded the creation of the LDF Scholarship Program Alumni Network (LSPAN) to promote community amongst our valued alumni and provide critical mentorship opportunities to current scholarship recipients. Cynthia Burt (Lehman '74) and Leah Goodridge (Warren '09) now proudly serve as the first co-chairs of LSPAN. With their able guidance, the Scholarship Programs Department is creating a thriving community in which our alumni, current recipients, and potential applicants can come together to make a difference across generations and for future deserving students.

Unfortunately, the fact remains that many students—especially African Americans and other students of color—are struggling to keep up with educational costs. Financial restrictions and the soaring costs of higher education make it increasingly unfeasible for students to do the hard work of fighting for civil rights while pursuing their academic goals. Despite this hard reality, the Scholarship Programs continue to do the work that Thurgood Marshall intended them to do; nearly half of our alumni work for the government or for not-for-profit agencies and organizations (including LDF's own Ryan Haygood, Co-Director of the Political Participation Group, Valerie Broadie, Director of Development and ReNika Moore, Assistant Counsel of the Economic Justice Practice) and 95 percent of our alumni stated that their LDF Scholarship was a significant help in financing their education.

As we seek to develop the next generation of *change agents*, leaders, and activists, the Scholarship Program's work becomes more essential than ever. While our world looks very different from the one that first inspired Thurgood Marshall's vision for the Scholarship Programs nearly 50 years ago, the core problems that faced our students then still persist today. Through modernizing our application process, galvanizing our distinguished alumni and identifying a larger pool of eligible students, LDF's Scholarship Programs will not only remain ready to combat the old struggles, but will also be able to equip a new generation with the tools to fight—and hopefully eradicate—those problems in the next half century.



CYNTHIA BURT
LDF LEHMAN SCHOLAR
CO-CHAIR, LSPAN

It is the summer of 1968 and in Tallahassee, Florida, Cynthia Burt is preparing to start her freshman year in college.

She lives with her grandparents in a tiny house. Despite their meager financial resources, Burt's grandparents have created an almost sacred space in their home for her to study. Burt's academic abilities have long surpassed those of her grandparents, but this was their goal. They see in 18-year-old Cynthia a new world. They know that she will benefit from the education that, just over a decade before, had been as unavailable to them as a house on the moon.

Through the LDF Lehman Scholarship, which paid in significant part for her tuition and expenses, Burt went on to become one of the first African Americans in Florida to attend Florida State University. By 1974, she had earned her Bachelor's and Master's Degrees in Social Work Administration and Program Evaluation/Research. She went on to serve for a decade in the Florida House of Representatives and Senate as Staff Director and Senior Legislative Analyst, where she developed landmark legislation on school choice and standards for college preparation. In 2000, former Florida Governor Charlie Crist appointed her to serve as the first African-American Deputy Commissioner of Administration and Technology for the Florida Department of Education.

A recent alumni survey has provided us with a clear view of our accomplishments as well as the work yet to be done.

Some pertinent statistics:

Nearly a quarter of our recipients are the first in their families to receive a BA.

More than half of our Warren Scholars were the first in their families to receive a JD.

98% of our students had to take out educational loans to finance their educations; of that number, 60% owe more than \$30,000.

One third of our alumni had a parent who was unemployed or disabled when they attended college or university.

85% of our alumni graduated from college within four years of enrolling in college, and 95 percent graduated within five years of enrolling in college—a particularly telling statistic, as recent studies have revealed that only 60% of whites, 49% of Latinos, and 40% of African Americans who start college earn their bachelor degrees within six years.

Not only did our scholarship alumni graduate at a higher rate than their peers of all races, they academically outstripped their colleagues: 40% of our undergraduates and 7% of our law students graduated with honors.

More than a quarter of our law alumni clerked after graduation, with more than half of them clerking in U.S. District Courts.

INSTITUTIONAL DONORS

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State Triangle United Way
Employees' Community Campaign
United Way, Inc.
United Way of the Bay Area
United Way of Bergen County
United Way of Delaware
United Way of the Greater Utica Area, Inc.
United Way of the National Capital Area
United Way of Nevada County
United Way of New York City
United Way of Rhode Island
United Way of Southeast Delaware County
United Way of Southeastern Pennsylvania
United Way of Stanislaus County
United Way of the Virginia Peninsula
Valley of the Sun United Way

ORGANIZATIONS

AARP Clinton Hill Chapter #2197
Advancement Project
AFSCME- Local 372
Alpha Kappa Alpha Sorority Inc.,
Lambda Upsilon Omega Chapter
Alpha Kappa Alpha Sorority,
Xi Zeta Omega Chapter
Alpha Lambda Omega Chapter Alpha Kappa
Alpha Sorority
American Association
of University Women
American Civil Liberties Union
American Federation of State,
County & Municipal Employees
Asian American Justice Center, Inc.
Beta Delta Boule Chapter,
Sigma Pi Phi Fraternity
Black Political Caucus,
Charlotte-Mecklenburg
Black Women Caucus
The Bold Initiative
Boston Scientific Organization
Boys Speak Out, Inc.
The Boulé Foundation
Charlotte Communities of Shalom
Charlotte Mecklenburg County
Branch of the NAACP

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of New York Unitarian
Conference of Grand Masters
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Delta Sigma Theta Sorority, Inc.,
Brooklyn Alumnae Chapter
Delta Sigma Theta Sorority, Inc.
Georgetown Alumnae Chapter
Delta Sigma Theta Sorority, Inc.
Charlotte Alumnae Chapter
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FIRST
First Baptist Church
The Foundation, To-Life, Inc.
Friendship Missionary Baptist Church
Golden Gate University
Golden State Grand Chapter, O.E.S.,
State of California
GoodSearch
Goodwin Memorial Baptist Church
Grace Baptist Church Of Germantown
Grand Court of Calanthe of North Carolina
Greater Mt. Sinai Baptist Church
Greater Providence Baptist Church
Grier Heights Presbyterian Church
Honesdale Wellness Center
The Journal of Blacks In Higher
Education/JBHE
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Life Enhancement Services, LLC
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FORD FOUNDATION

*Working with Visionaries on the
Frontlines of Social Change Worldwide*

“The Ford Foundation is committed to tackling enduring problems that require sustained effort and resolve.”

– Luis Ubiñas, President, Ford Foundation 2010

Since 1968, the Ford Foundation has been providing the kind of invaluable program and operating support to LDF that has enabled us to survive in difficult times and seize opportunities to thrive in good times. Whatever the socioeconomic and political climate, Ford grants to LDF help ensure that we can continue to advance tenaciously toward our vision of a racially just and equitable America.

Chartered in 1936 with gifts and bequests by Edsel and Henry Ford, the Foundation (entirely separate from the Ford Motor Company) is an independent, nonprofit, non-governmental organization, and one of the oldest, largest and most prestigious philanthropic institutions in the country. In fact, the Ford Foundation helps to serve as both a cornerstone and an innovator for the establishment and development of civil society around the world.

Under the leadership of such diverse figures as McGeorge Bundy, Franklin Thomas (the first African American to lead a major foundation), Susan Beresford, and now Luis Ubinas, the Ford Foundation has provided grants and visibility for LDF's work on fair employment and housing laws, school desegregation and reform, anti-poverty, ballot access, voting rights protection, and reform of discriminatory criminal justice practices. In 1989, a seed grant from the Ford Foundation helped LDF to begin building the endowment which continues to help sustain the organization today.

In 2009-2010, under the aegis of its Equality and Justice Program, the Ford Foundation provided generous support for the following LDF programs and campaigns:

- Count on Change campaign to help ensure an accurate count of African Americans during the 2010 national census;
- Groundbreaking work on “Dismantling the School to Prison Pipeline”;
- Ensuring and protecting ballot and voter access during the 2010 mid-term elections;
- Protecting voting rights, and ensuring fair economic reparations and educational access for the victims of hurricanes Katrina, Rita, Gustave and Ike;
- General organizational support.

And in 2009—in an enormous gesture of sustained faith in our work and our future—the Ford Foundation awarded LDF a \$2 million multi-year grant for organizational and program capacity-building.

We are grateful to the Ford Foundation for its long-term support, its philanthropic leadership and for sharing our goals of working to ensure that “all people have the opportunity to reach their full potential, contribute to society, and have voice in the decisions that affect them.”

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Our accomplishments over the past 70 years would not have been possible without the many partners who have joined us in our journey—lawyers, law firms, corporations, foundations—all willing to provide their expertise and assistance in our important work for equal justice.

Fried, Frank successfully represents clients from all business sectors—multinational leaders ranging from investment banks to heavy industry. However, they also understand the importance of reaching out to the community.

In 2000, Fried Frank joined LDF and the Mexican American Legal Defense and Educational Fund (MALDEF) to create a unique program to bridge the worlds of private law firm litigation and public service law. Through this program Fried, Frank directs its time, people and resources to today's toughest equal justice issues: civil rights, diversity, criminal justice, education, housing, voting rights, immigrants' rights and political access. The Fellows spend four years working on complex cases at Fried, Frank and then at either LDF or MALDEF. At the end of their fellowship they are encouraged to continue their work with one of these organizations.

The partnership with Fried, Frank has resulted in many of our successes in the court, but most importantly in developing the next generation of talented lawyers to continue the work towards an equal and just society: Elise C. Boddie, the first recipient of the Fried, Frank LDF Fellowship who is now an Associate Professor of Law at New York Law School, teaching constitutional law and state and local government law; Janai Nelson, a Research Professor and Fellow of the Ronald H. Brown Center for Civil Rights and Economic Development at St. John's University School of Law; Ryan Haygood, Co-Director of LDF's Political Participation Group; Olga Akselrod, Staff Attorney at the Innocence Project, Inc., where she handles a nation-wide docket of post-conviction cases involving DNA evidence; Jenigh Garrett, Trial Attorney, Voting Section, Civil Rights Division, U.S. Department of Justice; Marc Battle, Assistant General Counsel at Pepco Holdings, Inc.; Alexis Karteron, Staff Attorney, New York Civil Liberties Union, where she focuses on civil rights, civil liberties and reproductive rights impact litigation; Dale Ho, an Assistant Counsel in LDF's Political Participation Group; and Johnathan Smith, a Fellow in LDF's Economic Justice Practice Group.



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THE DEFENDER'S CIRCLE



In 2010 we established The Defenders Circle, LDFs recognition society for those who have named LDF in their estate or financial plans through a bequest, a charitable gift annuity, a charitable trust, a gift of life insurance, or a retirement plan asset.

We would like to thank our charter members who had the vision to invest in the future of LDF.

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GEORGE WALLERSTEIN JULIE LUTZ

George Wallerstein began supporting LDF's work during the civil rights movement in the early 1960s. Over the years Wallerstein and his wife, Julie Lutz, have invested over \$1 million in our work. It was apparent even in the 1960s, Wallerstein says, that the effort to expand civil rights in the United States would be a long job. LDF is still working to defend the gains made at that time and endeavoring to build on those successes for the future.

As life-long educators, Drs. Wallerstein and Lutz are committed to providing an opportunity for all Americans to have access to quality education. Their commitment to education is demonstrated by their support of Historically Black Colleges and Universities, the College Fund, and LDF's Scholarship Programs.



“Every year it is rewarding to learn about the new class of scholarship recipients, individuals with a passion to help improve their communities. We appreciate knowing that they are on their way to join LDF's outstanding alumni judges, members of Congress, professors, founders of community organizations—individuals who will carry forward LDF's fight for justice and equality.”

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CONDENSED STATEMENT OF INCOME AND EXPENSES		2010	2009
Twelve month period ended June 30			
SUPPORT AND REVENUE			
Contributions		9,180,394	11,221,480
Court Costs and Fees		39,766	52,976
Investment Income		1,137,660	(6,216,511)
TOTAL REVENUE		10,357,820	5,057,945
EXPENDITURES			
Program Activity			
Legal Programs		7,117,229	7,234,130
Public Information		2,291,778	2,228,409
Herbert Lehman Education Fund		478,629	607,633
Earl Warren Legal Training		69,067	87,283
TOTAL PROGRAM ACTIVITY		9,956,703	10,157,455
Supporting Services			
Management and General		1,378,380	1,126,482
Fundraising		2,352,438	2,413,234
TOTAL SUPPORTING SERVICES		3,730,818	3,539,716
TOTAL EXPENDITURES		13,687,521	13,697,171
Net result of operations		(3,329,701)	(8,639,226)
Bequests		3,189,897	862,410
Changes for pension benefit other than net periodic pension cost		(1,143,427)	(1,472,713)
CHANGE IN NET ASSETS		(1,283,231)	(9,249,529)
NET ASSETS			
Unrestricted		7,591,436	9,039,643
Temporarily restricted		4,892,375	5,203,284
Permanently restricted		18,284,636	17,808,751
TOTAL NET ASSETS		30,768,447	32,051,678

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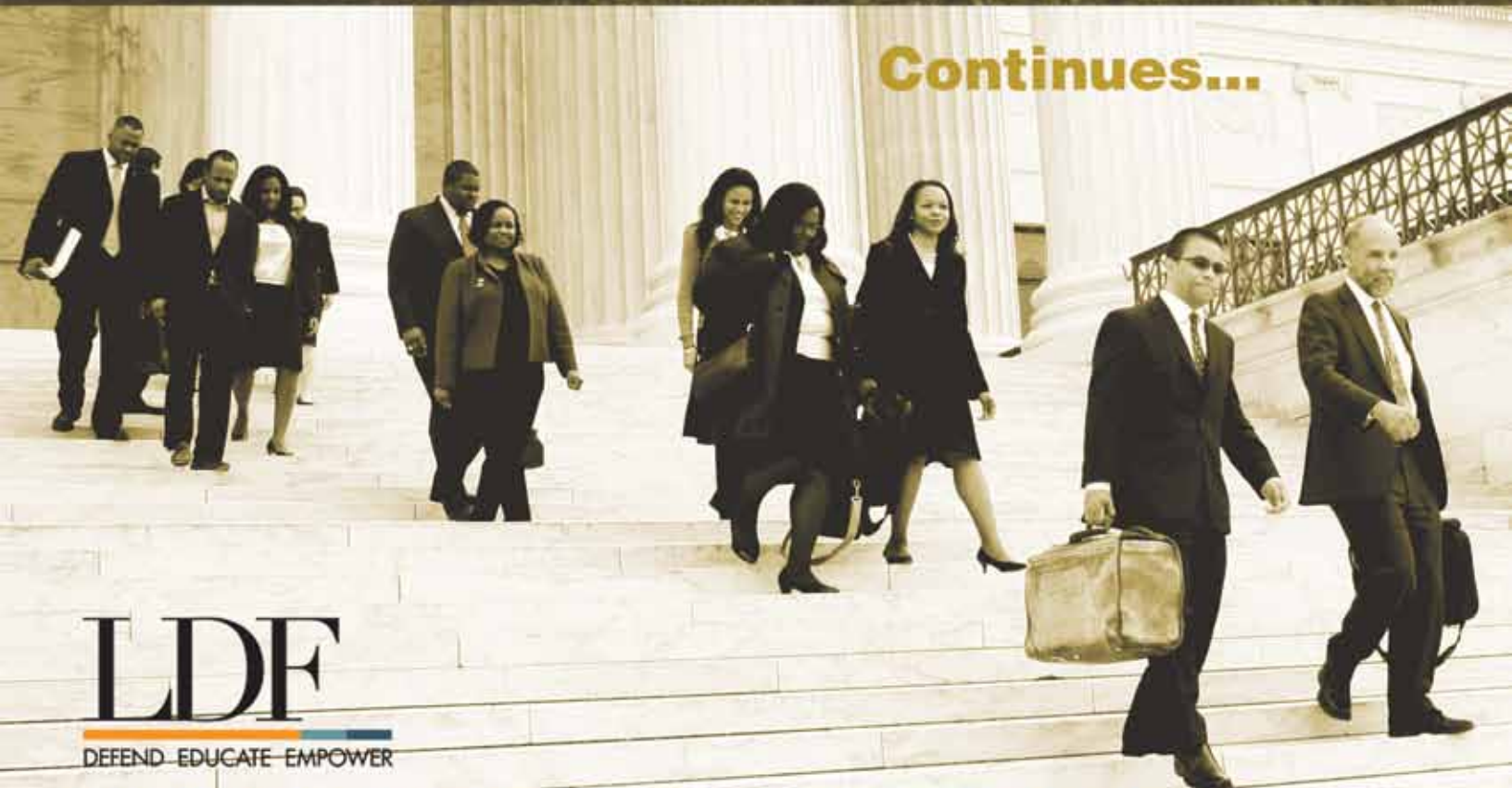
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