

Justice Matters: Pro Bono Newsletter

March 2021



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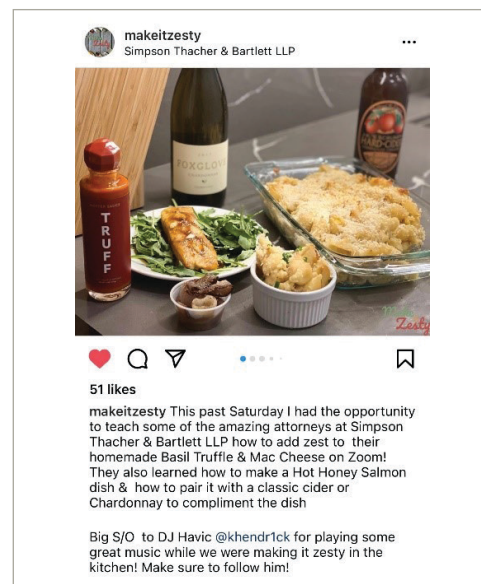
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Simpson Thacher Celebrates Its 2020 Pro Bono Contributions in *No Ordinary Year*

To state the obvious, 2020 was no ordinary year. But amidst a global pandemic, a national racial justice reckoning, global economic instability, and a heightened focus on politics and elections, the Firm continued to provide vital pro bono services to poor and vulnerable communities, nonprofits and small businesses, including a multi-office rapid response program to the COVID-19 pandemic and several new racial justice projects. Simpson Thacher lawyers stepped up, finding innovative ways to deliver critical legal advice to clients in crisis all over the country.

In recognition of these efforts in a year of remote work and social distancing, the Firm offered our Pro Bono Program participants an array of products and classes to choose from created by Simpson Thacher's small business clients. Volunteers also participated in the Firm's charitable contribution program, directing funds to partner nonprofits through popular vote. The 2020 contributions went to the National Homelessness Law Center and Doctors Without Borders. Both organizations will receive a charitable donation from the Firm.

Pro bono highlights from 2020 include prevailing on a habeas petition that secured the release of Jeremy Puckett after 18 years of incarceration, and obtaining asylum for a detained Honduran man who fled persecution for his sexual orientation. The Firm filed lawsuits challenging the constitutionality of Mississippi's permitting policies and a racially discriminatory law that makes it a felony for North Carolina residents to vote if they are on parole, probation or post-release supervision, even if they mistakenly believe they are eligible to vote. Our attorneys defended an attempt by neighbors of a Brooklyn Jewish Center to block the opening of a charter



school for at risk youth, and represented a mother who endured severe domestic violence against an appeal filed by the father before the Appellate Division, First Department, which agreed with the Firm's arguments and affirmed the Family Court's decision granting her full custody of her child. We wrote amicus briefs on the damage to families caused by the Government's Family Separation Policy, and about the Government's "Turnback Policy," under which U.S. Customs and Border Patrol agents use tactics of varying degrees (*e.g.*, threats or erroneously informing migrants that the U.S. no longer offers asylum) to encourage or force migrants at the U.S.-Mexico border to "turn back." We also protected the right to vote and access to the ballot by voters in Florida, Texas, Georgia and Pennsylvania.

The Firm was also successful in continuing to offer clinic opportunities through virtual platforms, including conducting intake screenings for young immigrants, preparing DACA renewal applications, and meeting with nearly 100 small businesses from around the country for limited-scope consultations on grant and loan programs and other governance questions to support their businesses in the wake of COVID-19.

Throughout its history, Simpson Thacher has greatly valued the contributions of its individual lawyers doing pro bono work. To get involved in these and other efforts, please reach out to **Harlene Katzman** or any member of the Pro Bono Program team.

Simpson Thacher and NCIP Win Innocence Finding for Client Wrongfully Convicted of Murder, Incarcerated Eighteen Years

On January 15, 2021, Simpson Thacher and the North California Innocence Project (NCIP) secured an order from the Sacramento County Superior Court of California declaring Jeremy Puckett factually innocent of the murder for which he had been wrongfully convicted and incarcerated for eighteen years. In finding Mr. Puckett factually innocent, the Court ruled in favor of Simpson Thacher and NCIP's arguments that the murder could not have happened on the date prosecutors contended at Mr. Puckett's trial, that Mr. Puckett had an alibi for the actual date of the murder and that the prosecution's key witness lacked credibility—primarily due to multiple recantations of his accusations against Mr. Puckett that Simpson Thacher and NCIP uncovered.

In 2002, Mr. Puckett was convicted of murder and sentenced to life without the possibility of parole. The Simpson Thacher team, working alongside NCIP Co-Founder Linda Starr and NCIP lawyer

and former 30-year career county prosecutor Karyn Sinunu-Towery, filed several habeas petitions on Mr. Puckett's behalf, the third of which prompted the California Supreme Court to order the trial court to hold an evidentiary hearing on Mr. Puckett's claims. After multiple hearings during fall of 2019, Simpson Thacher and NCIP secured Mr. Puckett's release from prison on March 13, 2020 following the Superior Court's grant of his habeas petition. In granting the habeas petition and vacating Mr. Puckett's conviction, the Court accepted Simpson Thacher and NCIP's arguments that prosecutors suppressed exculpatory evidence and that Mr. Puckett's trial counsel rendered constitutionally deficient representation, but the Court did not decide the issue of whether Mr. Puckett had proven his innocence.

Simpson Thacher and NCIP subsequently moved the Court for a ruling on Mr. Puckett's innocence claim under a statute that required Mr. Puckett to proactively prove his innocence. Although the Sacramento District Attorney's Office chose not to retry Mr. Puckett after his release, it opposed his request for an innocence finding. Through additional briefing and another hearing, Simpson Thacher and NCIP successfully argued to the Court that the evidence of Mr. Puckett's innocence outweighed the fatally flawed and unreliable testimony presented by prosecutors at his trial. The Court agreed with Simpson Thacher, declaring the District Attorney's arguments "absurd."

Alongside recognition from California's legal system that Mr. Puckett never committed the crimes for which he was convicted, the Court's finding of factual innocence enables Mr. Puckett to claim over \$900,000 in compensation under California's wrongful conviction laws.

The Simpson Thacher team includes Partner **Buzz Frahn** and Associate **Jordan Lamothe**, as well as former colleagues **Jason Bussey, Elizabeth White, Jenny Palmer, Adam Crider** and **Casey Mathews**.



Partner Buzz Frahn with Jeremy Puckett on the day he was released from prison after 18 years.

Simpson Thacher Partners With Immigrants' Rights Groups to Sue Former Administration for Violating Rights of Unaccompanied Minors

The Firm has partnered with immigrants' rights groups representing unaccompanied migrant children to sue the former Administration for violating the children's statutory and constitutional rights. The organizational plaintiffs are the Immigrant Defenders Law Center (ImmDef, based in California) and the Refugee and Immigrant Center for Education and Legal Services (RAICES, based in Texas). Represented by litigators from ImmDef, Justice Action Center (JAC) and Simpson Thacher, the plaintiffs filed *ImmDef v. DHS* in the United States District Court in the Central District of California, on January 14, 2021.

This lawsuit demands the reinstatement of a fair asylum process for unaccompanied minors. Over the past two years, the former Administration's Migrant Protection Protocols (MPP) program, also known as "Remain in Mexico," has sent more than 69,000 asylum seekers, including many babies and children, to some of the most dangerous places in Mexico. Out of desperation, and often due to circumstances beyond their control, some children cross the border alone, in hopes that they will be safer in U.S. custody. Once these unaccompanied children are in the U.S., the Trafficking Victims Protection Reauthorization Act (TVPRA) is supposed to protect them by creating a system that enables them to seek asylum in the U.S. and be given an immigration hearing before they are removed, and by setting out child-specific protections to take into account the special needs of children who are alone. However, the former Administration had been denying and violating the protections TVPRA affords these unaccompanied children, if they have ever had any prior interaction with any part of MPP. At least 500 unaccompanied children who have been detained in government facilities and previously interacted with MPP are at risk of being deported by the Department of Homeland Security without getting a non-adversarial asylum hearing from a child-centered lens. The Simpson Thacher team includes Partners **Stephen Blake**, **Brooke Cucinella** and **Buzz Frahn**, and Associates **Raul Duran**, **Charles Hoff**, **Rachel June-Graber**, **Nicholas Orr**, **Ryan Snyder**, **Regina Wang** and **Sarah Brim**.

Simpson Thacher Files Amicus Briefs Challenging Immigration and Education Policies

In October 2020, Simpson Thacher filed an amicus brief on behalf of fourteen nonprofit organizations

advocating for asylum seekers in *Al Otro Lado v. Nielson*, in the Southern District of California. The case challenges the government's "Turnback Policy," under which U.S. Customs and Border Patrol agents use tactics of varying degrees (*e.g.*, threats or erroneously informing migrants that the U.S. no longer offers asylum) to encourage or force migrants at the U.S.-Mexico border to "turn back." The brief challenged defendants' assertions that points-of-entry along the U.S.-Mexico border are at capacity and supported plaintiffs' claim that the government's practice is motivated by broader hostility to asylum seekers and the asylum process on the whole. The Simpson Thacher team included Partner **Buzz Frahn**, Associates **Daniel Owsley** and **Kourtney Kinsel**, and former colleague **Sarah Pugh**.

In December 2020, the Firm filed an amicus brief on behalf of a broad coalition of U.S. immigrant rights organizations detailing the high-level official design of the family separation policy and its intentional goal to inflict maximal cruelty against non-white migrants so as to deter future asylum seekers. The brief was filed in support of *D.J.C.V v. United States of America*, a damages action brought in the Southern District of New York by the Center for Constitutional Rights on behalf of a family separated at the border as a result of the government's family separation policy. The Simpson Thacher team included Partner **Buzz Frahn**, Associates **Daniel Owsley** and **Zachary Weiner**, and former colleague **Sarah Pugh**.

In February 2021, Simpson Thacher filed an amicus brief on behalf of Harvard University Professors Danielle Allen and Meira Levinson with the United States Court of Appeals for the First Circuit in *A.C. v. Raimondo*, a federal lawsuit in which plaintiffs seek recognition of a federal Constitutional right to an adequate civics education. The lawsuit, brought on behalf of fourteen students attending public schools in various districts throughout Rhode Island, alleges that state education officials have failed to provide these and other similarly situated students with an education adequate to prepare them to function productively as civic participants capable of voting, serving on a jury, understanding economic, social, and political systems sufficiently to make informed choices, and to participate effectively in civic activities. Simpson Thacher's amicus brief argued that the lack of robust civics education has contributed to a civic empowerment gap whereby marginalized students are denied the basic skills necessary to become effective citizens. Drawing upon the scholarship of Professors Allen and Levinson along with empirical data assessing political engagement, the brief showed that the neglect of civics education has had an especially acute impact

on students who are ethnic minorities, immigrants or from low-income families, who are disproportionately disadvantaged by public schools' failure to provide adequate civics instruction. The brief further contended that improving civics education in public schools will help close the civic empowerment gap by providing students with the tools necessary to engage effectively as citizens. The Simpson Thacher team included Partner **Bill Russell**, Senior Counsel **David Elbaum** and **Simona Strauss**, Counsel **Jonathan Menitove** and **Nicholas Ingram**, and Associate **Allison Moore**.

Simpson Thacher Marks Four Years Staffing Weekly Immigration Hotline for The Legal Aid Society of New York

In early 2017, Simpson Thacher was one of a small group of law firms asked to staff a hotline established by The Legal Aid Society after it was inundated with calls from individuals with questions about immigration policy changes and available services, as well those who sought to report information about ICE raids or obtain guidance for family members who had been taken into detention. Since then, 116 Simpson Thacher attorneys from all practice areas have spent just under 1,700 hours providing Know Your Rights information and referrals to callers, and have completed intake forms for The Legal Aid Society in situations where immediate assistance was needed. With training materials and updated resources provided by Legal Aid, the Hotline has proved to be an invaluable resource for the New York immigrant community.

In addition to the Firm's many dedicated attorney volunteers, the Hotline is made possible by Simpson Thacher's Telecommunications Systems Administrator, **George Caughlan**, and the Information Technology team, who ensure that the Hotline reaches the desks of our volunteers and that it has continued to function smoothly during the pandemic.



Simpson Thacher Awards 2021 Year-Long Public Service Fellowship

The Firm is pleased to announce the recipient of the 2021 Simpson Thacher & Bartlett LLP Public Service Fellowship. Third year Litigation Associate **Andrew Garber** will work at the Brennan Center for Justice in its Voting Rights Program which litigates voting rights cases that expand access to the polls, and supports advocacy and policy efforts to prevent voter suppression and restore voting rights to disenfranchised populations. The Brennan Center for Justice is a current pro bono partner with a history of hosting the Firm's Public Services Fellows. We wish Andrew well!

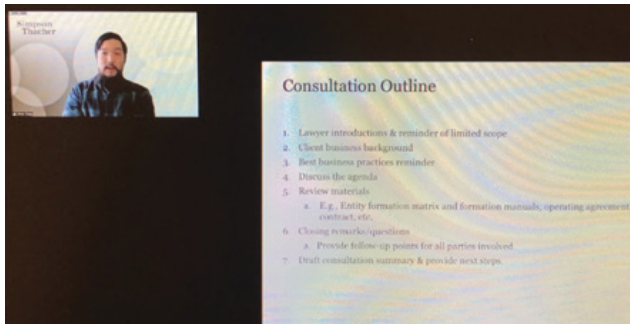


Small Business Clinic Expands to the Palo Alto Office

Simpson Thacher lawyers have assisted small businesses through a weekly limited-scope clinic program in New York for over 20 years, meeting with low-income entrepreneurs in need of brief legal advice on topics including contract review, entity selection, and general corporate structure and governance issues. In April 2020, at a time when small businesses faced disruption and hardship in the wake of the COVID-19 pandemic, Partner **Naveed Anwar** spearheaded the process of bringing that clinic structure to the Firm's Palo Alto office.

By mid-2020, with assistance from two of the New York office's small business clinic leaders, Associates **Matt Farrell** and **Evan Zuckerman**, a team of Palo Alto associates, led by clinic leaders **Jesse Feng** and **Jacob Gindt**, had launched a virtual, bi-weekly clinic, conducting limited-scope consultations with small businesses referred to the Firm by Start Small Think Big and the Lawyers Committee for Civil Rights of the San Francisco Bay Area. Numerous associate volunteers from the Palo Alto and Los Angeles offices have taken part in the sessions, which provide unique skill-building opportunities, in addition to the chance to assist a business that otherwise may confront a complex legal issue without counsel. The teams have advised bakers who currently are part of food incubators, consultants in the racial justice and education space, a small general contractor and apparel makers, among others. Volunteer attorneys at the clinic are guided by training materials specific to California law, which relate to entity selection, contract review, and general corporate governance issues. Opportunities to volunteer at the clinic are circulated by email, on

the Monday prior to a specific clinic session, and new volunteers are always welcomed (and paired with an associate who is experienced with the clinic).



Associate Jesse Feng, joined by Associate Jacob Gindt and Pro Bono Attorney Susan Cordaro (not pictured), conducted a Small Business Clinic Training CLE/webinar.

Recent Pro Bono Achievements

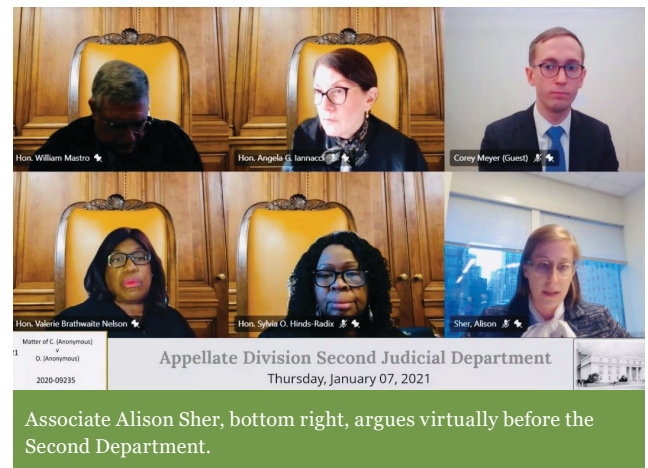
Simpson Thacher Wins Compassionate Release Under the First Step Act for a Pro Bono Client With Significant Spinal Issues

Last year, Simpson Thacher partnered with the Office of the Federal Public Defender for the Southern District of Mississippi to file motions for compassionate release under the First Step Act on behalf of individuals incarcerated in federal prisons. Pursuant to 18 U.S.C. § 3582(c)(1)(A), a court may grant compassionate release if it finds that “extraordinary and compelling reasons warrant” a reduction in an individual’s term of imprisonment. On January 15, 2021, Simpson Thacher won compassionate release for an individual with extensive spinal issues that caused him substantial pain and limited his ability to engage in exercise. The court found it significant that the Bureau of Prisons had never treated him with steroid pain injections, and had no plans to provide him with spinal surgery. The court held that the individual’s spinal condition constituted an extraordinary and compelling reason warranting a reduction in his term of imprisonment. The Simpson Thacher team included Partner **Sara Razi**, Pro Bono Attorney **Nihara Choudhri** and Associate **Sydney Wright-Schaner**.

Appellate Division, Second Department Reverses Family Court Order for Pro Bono Client

The Firm successfully represented the mother of three children in a pro bono matter before the Appellate Division, Second Department in an

expedited appeal filed by the children, who sought to overturn a Family Court order denying their request to issue special findings enabling them to file for Special Immigrant Juvenile Status. The appeal was argued by Associate Alison Sher on January 7, 2021. On January 13, 2021, the Second Department reversed the Family Court’s order and issued special findings that the father abandoned and educationally neglected the children, and that it is not in the children’s best interests to be returned to their home country. The matter was referred to the Firm by Safe Passage. The Simpson Thacher team included Partner **Brooke Cucinella**, Associates **Alison Sher**, **Ellie Shingleton** and **Christen Hammock**, and Pro Bono Attorney **Susan Cordaro**.



Simpson Thacher Secures Disability Accommodation for Elderly Veteran Allowing Him to Stay in Apartment

Attorneys at the Firm represented an 84 year-old veteran who has lived in the same public housing apartment, operated by the New York City Housing Authority (NYCHA), since 1972. The client suffers from several serious medical conditions and receives disability benefits from the Veterans Administration (VA) because he is permanently disabled as a result of injuries and illness related to his military service. Because family members who previously lived with the client had moved out of the apartment, NYCHA informed the client in 2014 that he was required to move to a smaller unit and that if he failed to move, they would terminate his tenancy and evict him from his home. Unable to find another apartment, in 2018 the Simpson Thacher team obtained the client’s tenant file from NYCHA, and prepared an accommodation request based on the client’s disability, which was required under the Americans with Disabilities Act and other state and federal laws. The accommodation was subsequently approved by NYCHA, with the result that the client is able to stay in his apartment. The Simpson Thacher team

included Associates **Michael Carnevale**, **Andrew Garber** and **Melissa Lewis** supervised by Partner **Bryce Friedman**.

Washington, D.C. Attorneys Obtain Special Immigrant Juvenile Status for Immigrant Child

Simpson Thacher obtained Special Immigrant Juvenile Status (SIJS) for an unaccompanied minor, referred by Kids in Need of Defense, who came to the United States from El Salvador. The team successfully briefed and argued before the Prince William County Juvenile Court that the child had been abandoned by his mother in El Salvador and that it would be in his best interests to remain in the United States with his father. The team used this predicate order to file for SIJS before U.S. Citizenship and Immigration Services (USCIS). USCIS granted the application in December of 2020. SIJS makes the client eligible for Lawful Permanent Resident Status. The Simpson Thacher team included Partner **Sara Razi**, Associates **Mark Skerry** and **Laurel Fresquez**, and former colleague **Sarah Pugh**.

Simpson Thacher Helps Grant Making Organization Obtain Tax Exemption

Attorneys at the Firm assisted Impact 100 NYC, a small grant making organization in New York City, which unites women to improve lives through philanthropy. Members donate at least \$1,000 each, are invited to submit nominations for grants, interview potential grantees and vote on the final awardees. The attorneys advised the client on the tax-exemption process and prepared its bylaws, conflict of interest policy and annual conflict disclosure statement. The Simpson Thacher team included Associate **Heather Lee** and Registered Foreign Lawyer **Richard Zhang** supervised by Senior Counsel **Jennifer L. Franklin**.

Simpson Thacher Wins Certificates of Relief From Disabilities for a Client With Misdemeanor Convictions

The Firm recently launched a project with The Legal Aid Society of New York to help individuals with past criminal convictions apply for a Certificate of Relief from Disabilities (CRD). A CRD is a way to remove certain collateral consequences of a criminal conviction, by entitling the holder to a presumption of rehabilitation. Having a CRD can provide the applicant with a second chance by removing bars to applying for jobs, licenses, public housing and more. On March 15, 2021, the Mount Pleasant Justice Court granted a CRD to a pro bono client whose convictions

were standing in the way of his dream of a career in social work. Through a detailed personal statement and supporting recommendation letters, the team explained the extraordinary challenges the client faced while growing up in foster care, as well as the tremendous personal and professional strides the client has made since his release from jail. The client can now put his convictions behind him, and focus on his plans to enroll in college later this year to pursue a social work degree. The Simpson Thacher team included The Simpson Thacher team included Partner **Mary Beth Forshaw**, Associate **Jonathan Schwartz** and Pro Bono Attorney **Nihara Choudhri**.

Awards, Events and News

On February 1, 2021, Exempt Organizations Partner **David Shevlin** interviewed **Victoria Bjorklund**, a Retired Partner at Simpson Thacher who founded and headed the Firm's Exempt Organizations Practice. As a Director of the Robin Hood Foundation, Victoria chaired the Robin Hood COVID-19 Relief Fund for most of 2020, overseeing tens of millions of dollars in grants. Victoria spoke about building her career representing nonprofit organizations, the history of Robin Hood's Relief Funds after 9/11 and Superstorm Sandy, and her work on Robin Hood's COVID-19 Relief Fund.



Victoria Bjorklund



David Shevlin

On March 24, 2021, the Women's Committee commemorated Women's History Month with a moderated conversation on using the role of pro bono counsel to effectively advocate for others in need. Corporate Associate **Karen Reyes** moderated



L to R: Associate Shanice Hinckson, Associate Sophie Gandler, Pro Bono Counsel Harlene Katzman, Associate Karen Reyes and Counsel Sarah Phillips.

the conversation with Litigation Counsel **Sarah Phillips**, Litigation Associate **Shanice Hinckson** and Corporate Associate **Sophie Gandler**, each of whom spoke about their own pro bono matters and how that work has contributed to each attorney's professional development, personal fulfillment and growth. Women's Committee Co-Chair **Krista Miniutti** welcomed the panelists and Pro Bono Counsel **Harlene Katzman** introduced the panel.

Partner **Jason Glover** spoke at the launch of a report by the Westminster Commission on Miscarriages of Justice titled, "In the Interests of Justice: An inquiry into the Criminal Cases Review Commission" on March 18, 2021. The report analyzes miscarriages of justice in the U.K. criminal justice system, emphasizes the

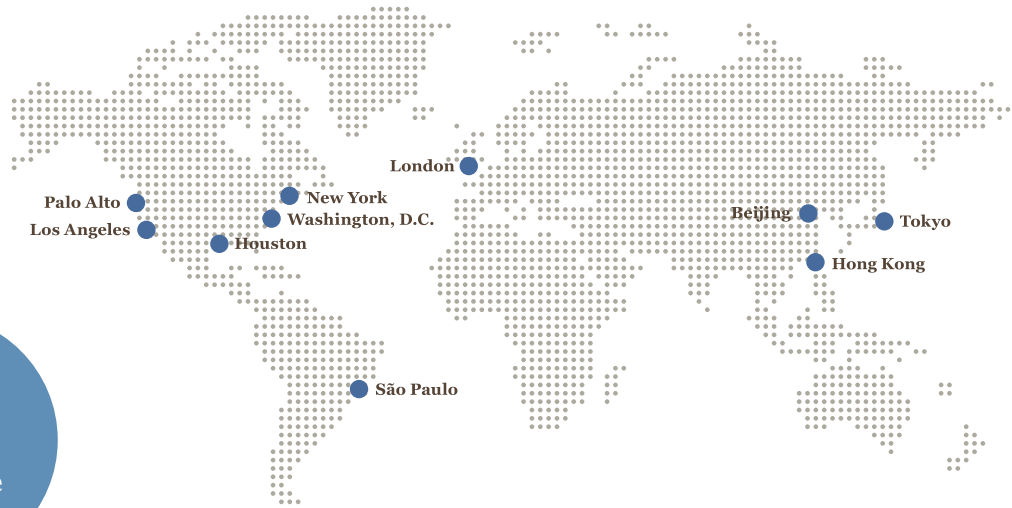


Jason Glover

continuing importance of the Criminal Cases Review Commission (CCRC), and examines the CCRC's structure, resources, statutory framework and approach. The Westminster Commission noted that the report was made possible through the support of many lawyers in the Firm's London office alongside Jason, including Partners **Ian Barratt, Samuel Charlton, Gareth Earl, Clare Gaskell, Robert Lee, Wheatley MacNamara, Amy Mahon, Sinead O'Shea, Seema Shah, Nicholas Shaw, Stephen Short, Ben Spiers** and **David Vann**.

The Westminster Commission on Miscarriages of Justice was created by the All-Party Parliamentary Group on Miscarriages of Justice in 2019 to examine the work of the CCRC, the public body with statutory responsibility for investigating alleged miscarriages of justice in England, Wales and Northern Ireland, 25 years after its inception.

Please send
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or suggestions regarding
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