

# Virginia's Indigent Defense Delivery System Receives Poor Grades from VIDC

by Betsy Wells Edwards

On March 19, 2003, in celebration of the 40th anniversary of the U. S. Supreme Court's decision in *Gideon v. Wainwright*, the Virginia Indigent Defense Coalition (VIDC) issued a Virginia Indigent Defense System report card. The coalition used the ABA's *Ten Principles of a Public Defense Delivery System* as the grading standard.

Virginia's public defense system received low marks in several areas. Some of the worst grades were in the areas of parity of resources between defense counsel and prosecution, which received an F; the independence of the selection, funding and payment of defense counsel, which received a D; and the quality of and standards required for defense counsel, which was given a grade of D.

In 2001, members of Virginia's defense bar, including representatives from each of the major statewide bar associations, began

meeting in response to Virginia's indigent defense system crisis. The group formed the Virginia Indigent Defense Coalition and formulated a plan for a comprehensive public awareness and education campaign that would help bring about reform of Virginia's public defense system. The coalition is working in partnership with a diverse group of community-based organizations and leaders, including the Virginia Trial Lawyers Association, the Virginia Association of Criminal Defense Lawyers and the Virginia Interfaith Center for Public Policy, the Mid-Atlantic Juvenile Defender Center and Virginia CURE.

The VIDC is focused on introducing statewide oversight and accountability to Virginia's system; implementing qualification and performance standards for appointed defense counsel, including caseload limits; increasing the availability of resources for appointed defense counsel; and improving compensation for pri-

vate assigned counsel and public defenders. Above all, the VIDC seeks to ensure that all Virginians receive competent and committed representation, regardless of their ability to afford counsel.

For more information about VIDC or a copy of the Virginia Indigent Defense System Report Card, visit the coalition's Web site at [www.vidcoalition.org](http://www.vidcoalition.org).

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*Betsy Wells Edwards is the director of VIDC. Prior to joining VIDC, Edwards worked in public relations and marketing for McGuireWoods, the Virginia Department of Motor Vehicles, the Virginia Department of Transportation, the Indiana Public Service Commission and the Indiana Senate.*

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## Community Tax Law Project Assists Low-income Virginians

The Community Tax Law Project (CTLP) was established in 1992 to provide low-income Virginians with pro bono legal representation in tax disputes, to increase public awareness and encourage public debate about policy and practice issues affecting low-income taxpayers, and to educate low-income individuals about their rights and responsibilities as taxpayers.

The project accomplishes its mission through a panel of volunteer attorneys and accountants and an in-house legal staff.

CTLP staff conduct substantial outreach efforts to taxpayers who speak English as a second language, to participants in welfare-to-work programs and to victims of domestic violence.

During the first half of fiscal year 2002–2003, CTLP assisted 273 taxpayers and has continued efforts to better serve those taxpayers for whom English is a second language. CTPL provides all volunteers with training and technical assistance. A tax background is not necessary.

### Plans Outreach Campaign

CTLP also plans to launch an extensive outreach campaign to caution members of the ESL community to seek assistance only from licensed attorneys and CPAs.

For more information, or to volunteer, please visit The Community Tax Law Project at [www.ctlp.org](http://www.ctlp.org) or call (804) 358-5855.

# Steven Benjamin is 2003 Powell Award Winner

by James Hingeley

Criminal defense lawyer Steven D. Benjamin is a long-distance runner, competing mainly in races of more than 100 miles. In the courtroom, as in running, Steve is known for his talent, energy, high standards, superb preparation and incredible effort.

Since starting law practice in 1979, Steve has represented criminal defendants who desperately need, but cannot afford counsel. He is one of Virginia's leading advocates of indigent defense reform, and he is committed to making it possible for all poor people to get fair trials.

On May 8, 2003, Steven D. Benjamin will receive the Virginia State Bar's Lewis F. Powell, Jr., Pro Bono Award. Steve joins a distinguished company of previous Powell Award recipients, including Steven D. Rosenfield (2000), who nominated him for this year's award. Rosenfield said, "Steve is tireless, brilliant, and committed to the cause of justice for poor people in the criminal justice system."

Steve and his law partner, Betty Layne DesPortes, worked four years to exonerate Jeffrey David Cox. Cox was convicted of a murder he didn't commit and served 11 years of a life sentence before his release in 2001. Not only did Steve work for free, but his firm also paid the expenses that Cox's family could not cover. Steve and others assisting in the defense investigation identified one of the murderers who is now serving a 65-year sentence.

Steve won dismissal of murder charges against another client, Roy Beverly, and directed an investigation that led to Beverly's wife being charged with the murder. His firm advanced the cost for an investigator and the state paid Steve the usual fee for his work as assigned counsel. The usual fee was less than \$17 an hour—not enough to offset the law firm's modest overhead costs.

When life and liberty are at stake, Steve draws no distinctions between minor and serious charges—he is totally committed

to ensuring fair trials. He will argue a misdemeanor trespass case on Kevin Hicks' behalf in the United States Supreme Court on April 20, 2003. On the way to the U.S. Supreme Court, Steve represented Hicks *pro bono* in Richmond Circuit Court, in panel and *en banc* hearings in the Virginia Court of Appeals and in the Virginia Supreme Court. See *Commonwealth v. Hicks*, 264 Va. 48 (2002). Steve's firm also paid thousands of dollars in defense costs in *Hicks* and two similar *pro bono* cases resulting in dismissals in the trial court.

In a 1998 Henrico Circuit Court case, Steve proved that "Virginia is ranked fifty-first among the states and the District of Columbia for allowable compensation for court-appointed attorneys and that the disparity between Virginia and the other states is overwhelming." This evidence, coupled with evidence of the increasing complexity of Virginia criminal trials, supported Steve's contention that Virginia's abysmally low court-appointed compensation is unconstitutional. In his view, the conflict between an attorney's duty to provide competent, quality representation and his or her self-interest in economic survival is irreconcilable. See *Webb v. Commonwealth*, 32 Va. App. 337 (2000). Ultimately representing his indigent client effectively, but losing the constitutional challenge, Steve pursued his innovative legal theory through state appeals to the United States Supreme Court, where his petition for certiorari was denied.

The court of appeals acknowledged that Steve "expended countless hours for which he was fully aware he would not receive compensation." As so often happens when assigned counsel is conscientious, the compensation Steve received for his vigorous defense of Salahudin Webb was insufficient to cover office expenses. And the presiding judge removed Steve from the Henrico County court-appointed counsel list.

Deciding to come at indigent defense reform from a different angle, Steve became one of the founders of the Virginia



Jennifer Sparger

Indigent Defense Coalition in 2002. VIDC's mission is to "improve the quality of defense services for the poor by enhancing standards of representation and increasing resources and funding available to counsel for poor defendants." As a volunteer member of VIDC's executive committee, Steve is helping to organize and lead a public awareness and education campaign about Virginia's indigent defense system crisis. Steve is also leading the fight for indigent defense reform, as president-elect of the Virginia Association of Criminal Defense Lawyers and board member of the National Association of Criminal Defense Lawyers.

Kate Jones, indigent defense counsel at the National Association of Criminal Defense Lawyers (NACDL), highly commends Steve for his volunteer work on the NACDL board. She says, "Steve Benjamin has been a dedicated and energetic member of NACDL's Indigent Defense Committee. His passionate commitment to ensuring quality defense services for all accused persons is matched by his ability to clearly articulate everyday injustices in Virginia and the need for systemic reform. Steve's passion was instrumental in the formation of the Virginia Indigent Defense Coalition. In addition to the countless hours he devoted to helping start the VIDC, he also inspired others to get involved."

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# Angela Cioffi Receives Law Student Pro Bono Award

Third year University of Virginia law student Angela Adair Cioffi has been selected to receive the 2003 Oliver White Hill Law Student Pro Bono Award.

The award is sponsored by the Virginia State Bar's Special Committee on Access to Legal Services. It recognizes extraordinary achievements of outstanding law students and will be presented at the Powell Award ceremony at the University of Richmond Law School beginning at 7:30 P.M. on May 8, 2003, during the VSB Pro Bono Conference.

Angela is a *magna cum laude* graduate of the College of William and Mary. She was a Fairstein Public Service Fellow, a Bryant Fellow, a Raven Scholar and a member of the *Virginia Law Review*. Angela's pro bono projects included working in the Charlottesville/Albemarle Public Defender Office, the Seattle Defender Association, the U. Va. Post-Conviction Criminal Assistance Project and the Legal Aid Justice Center in Charlottesville. Angela will take a judicial clerkship after law school graduation this May.

Angela was nominated by Kimberly Carpenter Emery, U.Va.'s assistant dean for public service. Dean Emery said, "Angela is an excellent role model for other law students due to her commitment, energy and compassion for those in need of free legal services. Unlike many who simply profess their commitment, Angela has been out in the community consistently volunteering to serve the poorest of the poor. During five semesters in law school, Angela has logged more than 200 hours of pro bono service, not including any of her hours in summer public service work."

## March Trial Skills for Public Interest Lawyers a Big Hit

(L-R) Virginia Supreme Court Justice Barbara M. Keenan visits with other faculty members, Stanley G. Barr, Jr., and R. Harvey Chappell, Jr., at the March 12 CLE co-sponsored by the American College of Trial Lawyers (ACTL) and the VSB Access Committee. The seminar, Trial Skills for Public Interest Lawyers, was conceived by former VSB President Michael W. Smith in concert with other Fellows of the American College. It was held at Lewis Ginter Botanical Garden's new Education Center. Several law firms generously sponsored a reception at the program's close.

Over-subscribed after a week, the 9 MCLE credit (2 ethics) program offered about 65 advocates the chance to update their skills as well as interact with eminent faculty from the judiciary and trial bar. The VSB Corporate Counsel Section underwrote videotaping costs. As a result, specially certified attorneys who were unable to attend and who expect to engage in trial practice on behalf of low-income clients, will have access to the CLE tapes. For information about obtaining text materials, tapes, and CLE credit, attorneys are encouraged to contact the bar's Pro Bono Office at (804) 775-0548 or 0522.



Jennifer Spangor

### Powell Award *continued from page 37*

Steve's many other credits include serving as nominally compensated counsel in *Huske v. Commonwealth*, 252 Va. 203 (1996)—the leading case in Virginia requiring the state to pay for forensic expert assistance in some indigent criminal cases. Steve worked to improve the criminal justice system through the legislative process where his experience, intelligence and determination are highly valued. This year, he worked without compensation as special counsel to the Virginia Senate Courts of Justice Committee. His volunteer service on Virginia legislative study committees includes such issues as execution of the mentally retarded, indigent defense,

reorganization of the criminal code and DNA evidence. Steve also contributes to improving the system by training forensic science students and by speaking at CLE programs for judges, prosecutors, and public defenders and other criminal defense lawyers.

Hard work, superior skills and complete dedication are the hallmarks of Steve's outstanding legal representation of his clients—paying and nonpaying. Steve's ethical and zealous advocacy brings credit to himself and honor to the profession. Steve's achievements in individual cases and his determined effort to improve Virginia's indigent defense system are

inspiring examples of genuine public service that will be celebrated at the Powell Award ceremony on May 8, 2003. As an exceptional lawyer, vital contributor to the well-being of our community and distinguished advocate of fair play in the criminal justice system, Steve Benjamin goes the extra mile and then some.

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*Jim Hingeley is the Charlottesville/Albemarle Public Defender, immediate past president of the Virginia Association of Criminal Defense Lawyers, and current vice president of the Virginia Indigent Defense Coalition.*

# 13TH ANNUAL VSB PRO BONO CONFERENCE

**Thursday, May 8, 2003**

The University of Richmond School of Law\*

*held in conjunction with*

**The Annual Juvenile Law & Education Seminar**

**Friday May 9, 2003**

*(Multiple MCLE and GAL credit hours are pending approval)*

## **THURSDAY, MAY 8, 2003**

**VSB PRO BONO CONFERENCE** sponsored by the **Special Committee on Access to Legal Services**

- **1:00–2:30 P.M.**      **PBC General Ethics Session**, “*With Respect to Special Needs: Applying Principles of Professional Courtesy and the ADA to Lawyer/Client Relationships*”
- **3:00–4:45 P.M.**      **PBC Breakout Sessions** (choose one):
  - A. “*Unbundled Services and Resources for Pro Se Litigants: Assisting the Self-represented in the Here-and-Now*”
  - B. “*Unconventional Mediation Situations facing the Adult-certified GAL*”
- **7:30–9:00 P.M.**      **PBC Award Ceremony & Reception honoring recipients of:**  
the Lewis F. Powell, Jr., and Oliver W. Hill (Law Student) Pro Bono Awards  
*Moderated by Bernard J. DiMuro, President, Virginia State Bar*

## **FRIDAY, MAY 9, 2003**

**JUVENILE LAW & EDUCATION SEMINAR**

*co-sponsored by the University of Richmond School of Law and the Virginia Public Defender Commission*

- A.M.**
  - Welcome & Keynote Address
  - Recent Developments in Juvenile Law
  - Detention Alternatives
- P.M.**
  - Planning for Commitment      **or**      • Dept. Juvenile Justice Institutional Services
  - Role of Probation Officer      **or**      • Leveraging Community Services for Delinquent Youth
  - GAL Ethics      **or**      • Defense Attorney Ethics

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**\*YOU ARE WELCOME TO ATTEND EITHER OR BOTH CLE PROGRAMS and the Pro Bono Award Ceremony & Reception. Please note, however, that CLE registrations are separate and carry separate fees.** Visit [www.vsb.org/probono](http://www.vsb.org/probono) for **agenda updates** and **registration forms** for these piggy-backed conferences. E-mail [petrini@vsb.org](mailto:petrini@vsb.org) to request special disability accommodations, or call VSB Pro Bono at (804) 775-0548 for registration information.

**Nominal Registration Fees:** For the **half-day Thursday VSB Conference**, the **\$25 fee covers** CLE text materials and a break. For the **Friday Juvenile Law & Education Seminar**, the **early bird registration fee is \$55** for lunch and CLE materials. There is no charge for the Thursday evening VSB Award Ceremony and Reception. Designated **parking** at the University of Richmond is free. A map and directions to the law school are available at <http://law.richmond.edu> (click on “about” then “directions”).

**Hotels:** Thursday Pro Bono Conference attendees are asked to locate, confirm and cover their own expenses, if lodging is desired. Call the Embassy Suites for information on special rates at (804) 521-1608 before April 24, or, visit one of the commercial reservation sites online or the Richmond Visitors Bureau, [www.richmondva.org](http://www.richmondva.org), for more options. **If you are registering for the Friday Juvenile Law seminar and need lodging help, e-mail [lori\\_hoover@pdcmail.state.va.us](mailto:lori_hoover@pdcmail.state.va.us).**

# Northern Virginia Partnership Provides Interpreter and Translator Services

by Betty Gordon

The Interpreter Planning Partnership (IPP) of Northern Virginia is a collaboration of public and private social service agencies that serve cultural and foreign language minority groups throughout the region. IPP provides interpreter and translator services and is administered by Pro Bono Coordinator Carol Johnson of Legal Services of Northern Virginia (LSNV).

Eric H. Moe, a pro bono assistant and LSNV's language access coordinator, is a qualified interpreter of Spanish, Korean, German and Chinese. He is also fluent in conversational Japanese and is studying Vietnamese and French. Moe interprets for clients and receives interpretive training to augment his extensive skills and to meet prospective volunteers.

Because of the area's large immigrant population, IPP needs interpreters and transla-

tors, especially in Spanish, Korean and Vietnamese. LSNV capitalizes on the language skills of other in-house staff and its pro bono network, recruiting college language instructors, law students seeking training opportunities and local social service organizations. Offender Aid and Restoration is a nonprofit organization that refers ex-offenders who satisfy their community service requirements by acting as foreign language interpreters. Moe screens volunteers for education, experience and expertise. Language volunteers also receive translation training.

LSNV has an extensive library of audio cassette tapes in English, Spanish, Korean, Vietnamese, Chinese, French, Japanese, Russian, Ukrainian and Somali: Native speakers read materials on domestic relations, elder and family law, housing and employment, public benefits, con-

sumer law and bankruptcy. The tapes teach volunteers the use and pronunciation of legal and technical terms. Much of this information is online at <http://www.legalaidhelp.org/publications1.htm>.

Translators who prepare documents require different resources. Moe has written glossaries of legal and technical terms in Spanish, Korean and Chinese, and he acquired a proprietary word processing program that includes a multitude of languages, allowing translators to type in their own languages.

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*Betty Gordon is a paralegal in the headquarters office of Freddie Mac in McLean, Virginia.*



## 65th Annual Meeting Virginia Legal Aid Award Luncheon

**Friday, June 20, 12:30 P.M.**  
**Cavalier Oceanfront Hotel**

The Access to Legal Services Committee and Attorneys Liability Protection Society (ALPS) will sponsor a luncheon at the VSB Annual Meeting that will include informative discussions, the annual Legal Aid Award and much more. The featured speaker will be **Lt. Governor Timothy M. Kaine**.

*Fee: \$10 per ticket. Space limited.*

*Annual Meeting program brochures with registration forms will be mailed and available online at [www.vsb.org](http://www.vsb.org) by mid-April.*

## Free and Low-cost Pro Bono Training



Visit the Pro Bono page on  
the VSB Web site for  
free and low-cost  
pro bono trainings and  
volunteer opportunities  
listed at

[www.vsb.org/probono/](http://www.vsb.org/probono/)

