

To the Editor:

While I sympathize with Vincent S. Averna's call for a renewed commitment to pro bono assistance for service men and women charged with criminal offenses but unable to hire attorneys, his insulting remarks concerning Virginia's public defenders are inaccurate and his proposed solution to the problem is off the mark. Even if Mr. Averna's example of the shoddy representation received by a Navy enlisted man involved a public defender, because it took place in San Francisco rather than Virginia, it says little, if anything, about Virginia's public defenders. But the attorney in the example was not, in fact, a public defender. Accounts of the case referred to the lawyer as "court-appointed." Indeed, according to Mr. Averna, the lawyer refused to pursue his client's case vigorously, explaining that he did not want to "antagonize the judge for fear of not getting more assignments." Clearly, this lawyer was not a state-employed public defender, but was a private attorney whose practice depended on keeping a cozy relationship with the judge in order to maintain his flow of court-appointed cases. By contrast, one of the

virtues of Virginia's public defender offices is their independence from the judiciary and the political process.

Moreover, if our service men and women need to have better access to quality indigent defense services, Mr. Averna's solution is ill conceived. Mr. Averna calls on members of the bar to donate their time to handling these serious cases (indeed, in the San Francisco example the enlisted man was charged with murder). With all due respect to members of the real estate, personal injury, domestic relations, corporate, trust and estates and tax bars, criminal cases—where life and liberty are at stake—are nothing to dabble in during one's spare time.

A far better and more effective solution would be for Mr. Averna and all members of the bar to advocate with their elected representatives to properly fund Virginia's public defender offices so that the attorneys who are dedicated to this complex and difficult area of practice can provide representation to all who require it. It would be especially ironic if those who fight for our country and its Constitution do not receive the Constitution's full pro-

tections in their time of need. Virginia's service men and women deserve the best and, given full state support, Virginia's public defenders will be there to provide it.

Richard C. Goemann  
Executive Director  
Virginia Public Defender Commission

## We want to hear from you.

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February 19, 2004

Jean P. Dahnk, Esquire  
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Dear Jean:

Your words in the "President's Message" in the *Virginia Lawyer* (February 2004) were very kind to those of us involved in the "sniper" trials. While I am undeserving of your praise, I could not agree with you more as to your compliments of the prosecutors, the judges and the other defense attorneys.

Our judge, the Honorable Jane Marum Roush, maintained a wonderful demeanor yet set a tone that required the best courtroom decorum. Judge Roush provided a friendly, professional and courteous environment in which we were

allowed to try our case and argue our motions. I admire her very much as a trial judge and as a person.

Our prosecutors, Robert Horan, Esquire, and Ray Morrogh, Esquire, and those from Prince William County, Paul Ebert, Esquire, James Willett, Esquire, and Rick Conway, Esquire, were extraordinarily well prepared and passionate but ethical in their efforts.

My co-counsel, Mark Petrovich, Esquire, Tom Walsh, Esquire, and Michael Arif, Esquire, and Mr. Muhammad's counsel, Peter Greenspun, Esquire, and Jonathan Shapiro, Esquire, met and exceeded not just expectations but the bar's highest aspirations.

I believe all trial participants—judges, counsel and jurors—paid a significant emotional and spiritual price. That is, perhaps, the cost of truly trying to do their respective tasks to the best of their ability.

It is very gratifying to all the participants to be commended for our efforts. It is very touching when it comes from you, speaking for our bar. Thank you for your kindness.

With kindest personal regards, I am

Very truly yours,

Craig S. Cooley

*Cooley is a Richmond attorney who represented Lee Boyd Malvo, who was convicted by a Chesapeake jury of capital murder and sentenced to life in prison without parole. Malvo's partner in the shootings, John Allen Muhammad, was convicted by a jury in Virginia Beach of capital murder and sentenced to death.*