

Criminal Law Section

2008-2009

David P. Baugh, Chair

The Criminal Law Section had another successful year. The Criminal Law Section is one of the largest sections in the Virginia State Bar with over 2,400 members. Consisting of prosecutors, defense attorneys, judges and professors the section represents and brings together every aspect of this area of law in a spirit of camaraderie and friendship among, often, heated opposing advocates.

The Thirty-ninth Annual Criminal Law Seminar, held in both Charlottesville and Williamsburg, continues to be one of the highlights of the Section activities for the year. While offering an excellent agenda of continuing legal education presented by some of the most respected practitioners and legal scholars in the state, it continues to be marked with a time for social interchange. The CLE affords the opportunity, which many look forward to, of meetings between the newer practitioners, older more experienced advocates and friends and opponents. The day of each CLE is marked by a pleasant sense of reunion, an aspect of the seminar which encourages the numbers of attendees.

This year was also memorable due to our two luncheon speakers: Rep. Bobby Scott, representing Virginia's Third Congressional District and Marvin Lamont Anderson, a wrongfully convicted defendant and the 99th person vindicated and freed through the assistance of the Innocence Project.

Rep. Scott, always an enlightening and entertaining speaker, spoke in Williamsburg. In Charlottesville a fly landing on cotton could have sounded like thunder as Marvin Lamont Anderson, in a calm and forgiving tone, told of his arrest at the age of 18 for a brutal rape and assault in Hanover County. Despite his protests of innocence, his testimony and his alibi, he was convicted and sentenced to two hundred and ten years.

Due to the persistence of his mother and his undying faith in the system he was exonerated in 2001 with the assistance of Peter Neufeld and Project Innocence after serving fifteen years in prison and four years on parole. He was positively cleared of any wrongdoing or involvement with DNA testing. For criminal lawyers his plight and sincerity provided a perspective that could not be imagined.

Now 45 years old, at the time of his arrest at age 18 his goal was to be a volunteer firefighter. Currently, the owner of a small trucking company, Mr. Anderson is a volunteer firefighter.

The annual meeting in Virginia Beach in June was notable by the section presentation – ***“From Guantanamo to Abu Ghraib – The Changing Landscape of Detention and Protection.”*** Presented by military and civilian lawyers involved in the detention center

and the Office of Military Commissions it revealed the intricacies and difficulties associated with Guantanamo. All agreed it was provocative.

The most significant event impacting upon the criminal law section, the bar, the profession and the citizens of the Commonwealth was the death of Professor Robert E. Shepherd, Jr. on December 11, 2008, after a battle with cancer at the age of 71. Professor Shepherd had been a moving force behind the success of the section. In addition to his teaching duties at T. C. Williams School of Law he published the section newsletter, coordinated and arranged the annual seminar and saw to the scheduling of speakers. He was an active member of the section up until the time of his death.

A graduate of Washington and Lee undergraduate and law school Professor Shepherd was a member of the faculty at T. C. Williams from 1978 until his retirement in 2001.

During his legal career there was perhaps no greater influence upon the legal rights of children in the Commonwealth of Virginia than Professor Shepherd. He was the founder and a board member of the National Center for Family Law at T. C. Williams and was widely sought and recognized as an expert on family law and juvenile rights before legislative committees and before legal bodies all over the United States. He headed the American Bar Juvenile Justice Committee and the Committee on the Needs of Children for the Virginia Bar Association.

At the time of his death, so untimely and at a time when he clearly had identified issues, both personal and professional, he wished to pursue, the impact upon the mission of the section became perilous. However, as in all tragedies, his friends and colleagues, with love and respect for him as a man and a member of the profession, rose in an attempt to fill the great void left by his death. Professor Ron Bacigal, already laboring under an awesome schedule of professional commitments with his teaching and writing, assumed the responsibility for the publication and editing of the newsletter and the updated review of the legal opinions from our appellate courts impacting criminal law in the Commonwealth.

His dear friend for decades and fellow member of the board, Reno S. Harp, III, assumed the spearheading duties, aiding and cajoling this section chair in the discharge of the day to day duties necessary to coordinate a massive state-wide CLE, not once, but twice for the year.

Always the core and base for the section, Terry Patrick and Bet Keller, without a moment's hesitation filled in for his absence in a beautiful display of affection for a great man and friend and their continued personal dedication to the section. In times of loss and devastation we can be reminded of the strength around us. Every man and woman who is a member of this section owes a great debt of gratitude to these two women. Professor Shepherd would have beamed at their efforts and success.

During the Section's annual business meeting in June, the following officers were elected for the 2009-2010 bar year: **Richard E. Trodden**, of Arlington, as chair; **Carolyn V. Grady**, of Richmond, as vice chair; and **Casey R. Stevens**, of Woodbridge, as secretary. The following lawyers were elected to the Board of Governors for four-year terms: **James A. Bullard, Jr. and Claire G. Cardwell**, both from Richmond.

My term ends, but I take from it a comfortable feeling of kinship and enjoyment between the members of the section and my sincere belief that the interplay of the academics, judges, defense attorneys and prosecutors of the criminal section has been evidence of the most civil and congenial relationships I have ever witnessed in the bar. It is comforting knowing that due to the dedication of section's board of governors including Reno and Ron, VSB staff members Terry and Bet, and the CLE presenters we all look forward to seeing every year, the efforts to improve the quality of legal representation in criminal law in the Commonwealth will continue and flourish.

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