

# Mentoring Law Student Pro Bono Volunteers: Two Ways to Give

by Kimberly C. Emery

The current economic crisis has created incentives for attorney pro bono partnerships with law student volunteers. Legal services programs, facing cutbacks in funding, are suffering staff reductions and layoffs. While the availability of government-funded legal services declines, the number of low-income clients who need assistance with a diverse array of legal issues continues to grow.

Meanwhile, law students facing a difficult job market are eager to develop their legal skills and build networking opportunities through pro bono work. The need for pro bono attorneys has never been greater, nor has the interest from law students in volunteering ever been stronger.

Attorneys who are reluctant to commit the time necessary to handle a pro bono matter should consider leveraging their services by mentoring a law student volunteer. Last spring, the Supreme Court of Virginia issued a challenge to lawyers in the commonwealth to address the crisis of unmet legal needs by providing additional pro bono services. Pairing experienced attorneys with dedicated law students can both increase the amount of legal assistance available to indigent clients and inculcate the ethic of pro bono in the next generation of lawyers.

Law students, who are not yet members of the bar, require supervision from licensed attorneys in order to provide clients with legal advice and assistance. As the assistant dean for pro bono and public interest at the University of Virginia School of Law, I understand the challenge of convincing busy attorneys not only to provide pro bono services, but also to agree to mentor a student volunteer. Yet, lawyers in any type of private practice—from a national firm with multiple offices to a solo practi-

tioner in a small town—can supervise a law student volunteer. In exchange, the attorney will receive assistance with pro bono work, such as legal research, drafting of documents, or client interviews. Over the past several years, the law school's Pro Bono Program has developed successful projects that pair private attorney mentors with volunteer law students. For example, the Hunton & Williams Pro Bono Partnership provides free legal services to victims of domestic violence and indigent persons seeking asylum or other immigration-related representation. Student volunteers are supervised by attorneys from the firm's Richmond office or by the pro bono associate in the Charlottesville pro bono office.

According to Harry M. "Pete" Johnson III, a Hunton & Williams partner in Richmond, "The Hunton & Williams-U.Va. Law School Pro Bono Partnership has given us a wonderful opportunity to work on significant legal matters with bright, enthusiastic, and engaging law students. Our pro bono office in Charlottesville benefits greatly by having law students helping to represent victims of domestic violence and immigrant clients who are seeking asylum in this country because of persecution in their country of origin. The enthusiasm and hard work of these students make a significant contribution to the outcome of the clients' cases and, needless to say, the clients really appreciate their efforts."

Other student volunteers, under the supervision and mentoring of local family law attorneys, work with the No Fault Divorce Pro Bono Project, to assist with the preparation and filing of no-fault divorces for indigent clients referred by the Central Virginia Legal Aid Society. Both of these projects require students

to make a year-long commitment of several hours each week. Ongoing and consistent participation in a pro bono project facilitates a strong relationship with the mentor attorney and decreases time spent on training, while also allowing the student to hone legal skills and potentially follow a case through to resolution. By pairing their attorneys with law student volunteers who provide additional resources, law firms can increase the size of their pro bono docket.

The Pro Bono Program also offers ad hoc pro bono opportunities in response to attorney requests for law student assistance. These projects require less time commitment from the student volunteer and, in some instances, can be carried out by e-mail or phone. Discrete legal research projects are particularly suitable for this type of mentoring.

For example, several students assisted with preparation of an employee handbook for a domestic violence shelter. Melissa W. Riley, the supervising attorney at the Charlottesville office of McGuireWoods LLP, said, "Working with U.Va. law students on this project was a rewarding experience. The students were knowledgeable and eager to share their time and enthusiasm. In return, I was able to give them a glimpse at the real-life practice of law. I would gladly participate in this program again."

Another student assisted a local tax lawyer with a pro bono matter for a small nonprofit organization. Richard H. Howard-Smith from Feil, Pettit & Williams PLC in Charlottesville found that using a student volunteer made it more feasible for him to accept a request for pro bono services. "I have very much enjoyed working with a law student vol-

Mentoring continued on page 23

## Drive-To-Work Benefits All Virginians

by O. Randolph Rollins

Early in his new administration, Governor Robert F. McDonnell made offender reentry a major initiative. Everyone recognizes that the key to successful prisoner reentry is jobs. But if a person cannot drive, how can he or she get a job? According to a national research report, “If you don’t have a valid driver’s license, you don’t have a prayer of getting and keeping a job over time.”

Virginia has about 5.5 million drivers. At any time, more than 700,000 persons have suspended licenses. That’s 13 percent of all drivers. While suspensions result from driving-under-the-influence citations, habitual offender status, and other driving-related violations, more than half of all suspensions are for nonpayment of fines and costs.

The effect of offender financial obligations on reentry was confirmed in a recently published study. *Criminal Justice Debt: A Barrier to Reentry*, by the Brennan Center for Justice at New York University School of Law, examined the practices of fifteen states, including Virginia, regarding offenders’ financial obligations, such as fines and costs, child support, and restitution. It concluded that “criminal justice debt significantly hobbles a person’s chances to reenter society successfully after a conviction.” The study observed that fourteen of these states, including Virginia, “utilize poverty penalties — piling on additional late fees, payment plan fees and interest when individuals are unable to pay their debts all at once.” Also, it found that eight states, including Virginia, “suspend driving privileges for missed debt payments.”

In 2007, Drive-To-Work was organized as a tax-exempt, nonprofit corporation with a mission to assist low-income and previously incarcerated persons to restore their driving privileges so they can drive to work and keep a job. Over the next three years, Drive-

To-Work received nearly two thousand applications and assisted about six hundred persons with their license problems. Of these persons, 180 have had their licenses reinstated. In the process, more than \$110,000 has been remitted to the state in previously unpaid fines and costs.

In over 80 percent of our cases, one of the reasons for suspension is unpaid fines — usually for multiple convictions in several courts. When these fines are old, interest accrued at a 6 percent statutory rate can easily double the amount owed. There are suspensions for fines as low as a few hundred dollars and as high as \$75,000. And while the fine is a part of the punishment and costs are needed to pay for the courts, interest on unpaid fines is much harder to justify — particularly when the offender is incarcerated and incapable of paying the fine.

A person whose license is suspended because of fines and costs can be reinstated by paying the outstanding total, including interest; establishing a payment plan; or getting a six-month restricted license from the courts. There are differing pay plan requirements among the courts. Some require significant down payments, such as 50 percent of the total, which often is unattainable by poor defendants; others limit the time for payment to one year, which is not possible for fines in the thousands of dollars. No jurisdiction has the time or resources to evaluate cases on “ability to pay,” as expected by decisions of the U.S. Supreme Court. So for the average defendant, there is little chance of exception from a particular court’s standard pay plan. Indeed, difficulty of administration has led some courts to decline to offer any pay plan, despite the authorization provided in the law.

Drive-To-Work presents courts with pay plans that have a reasonable down payment and a monthly payment within

the means of the defendant. We have had success in seeing our plans accepted, in some cases as a result of new judicial flexibility. Many of our clients have gotten their licenses back as a result. The immediate benefit is eligibility for more jobs and pay increases of 25 percent or more because the individual can now drive. More broadly, the governor’s reentry initiatives are being accomplished through successful reentry.

But our efforts are case-by-case. A more expansive approach is legislation, either following the lead of other states or charting our own Virginia course. For the past several years, bills have been offered in the General Assembly to give judges the authority to waive interest on fines and costs “for good cause shown.” One such cause might be inability to pay because the defendant is in jail or on disability. Another might be that the defendant pays off the original fine in full if the interest is waived. A third might be letting the defendant “earn down” the fine and interest by keeping a job and staying out of trouble for a period of time.

Most of these proposals died when opponents cited “soft on crime” arguments and when others asked why it is fair to give a break to offenders when nonoffenders do not have the payoff options. The governor’s reentry initiative offsets the “soft on crime” arguments. To the other objection, why not give judges discretion to adjust interest for all those owing fines and costs, who could include soldiers fighting in foreign lands and those enduring long-term unemployment.

Drive-To-Work seeks pragmatic solutions in individual cases and in legislative or judicial decisions that benefit all citizens. This means respecting judicial decisions to impose fines as part of

Drive continued on page 23

# Arlington Firm Receives Affordable Housing Award

Jonathan C. Kinney (seated) of Bean, Kinney & Korman PC has been recognized with the 2010 Affordable Housing Award by the Arlington Partnership for Affordable Housing for his work to develop and preserve affordable rental housing in the community. Shown are (seated, left-right) Carol J. Schrier-Polak, Kinney, and Ela Flynn and (standing) Philip M. Keating, Raighne C. Delaney, James W. Korman, Leo S. Fisher, Richard T. “Tad” Lunger III, David C. Hannah, and Donna Snarr-Ingram. All work with Bean, Kinney.



**Drive** continued from page 22

the sentence, and at the same time promoting practices that offer offenders who try to meet their responsibilities both an incentive and a reward. ♪



**O. Randolph Rollins** is founder and president of Drive-To-Work, a non-profit corporation that assists persons to restore their driving privileges so they can keep a job. He is a retired partner with McGuireWoods LLP, a former Virginia secretary of public safety, and a current member of the Virginia State Bar Council, representing the city of Richmond. He owns and farms Blue Knob Farm in Henry County.

**Mentor** continued from page 21

unteer in connection with my pro bono work for charities. Being a tax lawyer in a small town, I get asked to help organize charities a lot. The volume and sophistication for the legal work required has greatly increased in recent years, making it ever more difficult to accept these requests. Having a law student volunteer to do most of the drafting and detailed tax work is the most practical solution possible to help the charity and the lawyer accomplish these tasks.”

Finally, daylong pro bono clinics such as Wills for Seniors, which is sponsored by the law firm Williams Mullen, provide an easy way to match attorneys with law student volunteers.

Pro bono collaborations such as these offer experienced attorneys an opportunity to give back twice—first, by providing much needed legal assistance to low-income clients and second, by sharing their expertise and commitment with a law student volunteer. ♪



Kimberly C. Emery has been assistant dean for pro bono at the University of Virginia School of Law since 2004. She previously was assistant dean for public service and founder and director of the Mortimer Caplin Public Service Center. She oversees programs that give students and graduates experience with domestic violence law, immigration and asylum, child health advocacy, legal aid, no-fault divorce, and legal outreach at soup kitchens, homeless shelters, and low-income housing. She holds degrees from Carleton College and U.Va. law. In 2000, she was recognized as volunteer of the year by the Legal Aid Justice Center.

# Access to Justice in the United States

## Findings from the Newly Released Rule of Law Index of the World Justice Project

by Roderick B. Mathews and Juan Carlos Botero

The World Justice Project

*The rule of law is the foundation for communities of opportunity and equity—it is the predicate for the eradication of poverty, violence, corruption, pandemics, and other threats to civil society.*

—William H. Neukom, founder, president, and chief executive officer of the World Justice Project

The World Justice Project<sup>1</sup> (WJP) is a multinational and multidisciplinary movement whose mission is to strengthen and reinforce worldwide civil society's understanding that the rule of law is not just for judges, lawyers, and the courts, and that the rule of law is fundamental to safe, secure, and prosperous communities of equity and opportunity.

The rule of law is the cornerstone to improving public health, safeguarding participation, ensuring security, and fighting poverty. Without the rule of law, medicines do not reach health facilities due to corruption, women in rural areas remain unaware of their rights, people are killed in criminal violence, and firms' costs increase because of expropriation risk.

The WJP movement is unique in that it is based in collaboration and mutual support among all of the trades, disciplines, and professions, from architects and engineers to people in education, public safety, faith, journalism, military service, the arts, and beyond—as well as lawyers, judges, and the courts.

The WJP definition of the rule of law<sup>2</sup> has been vetted over the last three years in multidisciplinary mainstreaming regional conferences on five continents and in two World Justice Forums.<sup>3</sup> More than twenty scholars, including two Nobel laureates, have produced original research that establishes that the rule of law is essential to communities of equity and opportunity.

A 501(c)(3) tax exempt organization, WJP achieves its mission through three core initiatives, each informing the others: international and domestic mainstreaming, scholarship and research, and the *Rule of Law Index*.

### The WJP Rule of Law Index

The *WJP Rule of Law Index* is a new, trademarked quantitative assessment tool designed by the World Justice Project to annually measure countries' adherence to the rule of law and track changes across time.

The *WJP Rule of Law Index* examines practical situations in which a rule of law deficit may affect the daily lives of ordinary people. For example, the *Index* evaluates whether citizens and companies can access public services without the need to bribe a government officer, whether a basic dispute among neighbors or companies can be peacefully and affordably resolved by an independent adjudicator, or whether people and companies can conduct their daily activities without fear of crime or police abuse.

The *Index* provides new data on the following ten dimensions of the rule of law:

- limited government powers;
- absence of corruption;
- clear, publicized, and stable laws;
- order and security;
- fundamental rights;
- open government;
- regulatory enforcement;
- access to civil justice;

- effective criminal justice; and
- informal justice.

These ten factors are further disaggregated into forty-nine subfactors. The scores of these subfactors are built from more than seven hundred variables drawn from assessments of the general public and local legal experts.

The *Index's* rankings and scores are the product of a rigorous data collection and aggregation process. Data comes from a global poll of the general public (1,000 respondents per country) and detailed questionnaires administered to local legal experts. To date, more than 35,000 regular citizens and 900 experts from around the world have participated. A statistical audit of the *Index* data was conducted by the European Commission's Joint Research Centre. Both the report and the statistical audit are available for download at [www.worldjusticeproject.org](http://www.worldjusticeproject.org).

The *Index* data is intended for a variety of audiences, from reform-oriented governments willing to advance the rule of law in their countries to multinational companies interested in testing the temperature of the institutional environment around the world.

The *Index* currently covers 35 countries and is set to expand to 70 countries next year and 100 countries in 2012. It was made possible by funding from the Neukom Family Foundation, Bill & Melinda Gates Foundation, GE Foundation, Ewing Marion Kauffman Foundation, and LexisNexis.

**Access to Justice in the United States**

According to the 2010 report, which assesses countries on thirty-seven rule of law dimensions, the United States scored high in a number of areas, including open government, freedom of speech, freedom of religion, checks and balances on the government’s powers, effective regulatory enforcement, and clear, publicized, and stable laws.

The United States obtained low scores, however, in providing effective access to civil justice. In this category the United States appears to lag behind other developed nations sampled (Australia, Austria, Canada, France, Japan, Netherlands, Singapore, South Korea, Spain, and Sweden). In need of improvement in this category are access to and affordability of legal counsel in civil disputes for low-income people and delivery of civil justice without unreasonable delays.

These problems appear to affect poor Americans the most. According to a *Rule of Law Index* poll of one thousand people in New York, Chicago, and Los Angeles, a significant gap exists between rich and poor individuals in terms of both actual use of and satisfaction with the civil courts system. For example, only 40 percent of low-income respondents who used the court system in the past three years reported that the process was fair, compared to 71 percent of wealthy respondents. This 31 percent gap between poor and rich litigants in the United States is the widest among all developed countries sampled. In France this gap is only 5 percent; in South Korea, 4 percent; and in Spain, it is nonexistent.

Several reputable organizations<sup>4</sup> have found that fewer than one in five low-income persons in America obtain the legal assistance they need. The *Rule of Law Index* confirms these findings and provides a new comparative perspective on this problem. As Professor Anthony Sebok argued in a recent opinion piece,<sup>5</sup> there may be a problem of allocation of resources within the civil justice system in the United States.

**WJP Projects in Virginia**

In addition to developing the *WJP Rule of Law Index*, the World Justice Project is associated with civil education and Law Day events across the United States. One is the Teach the Kids program in Virginia, through which volunteer lawyers have taught middle school students in more than twenty school districts about the rule of law. Teach the Kids is sponsored by the Virginia Bar Association with a grant from the Virginia Law Foundation.

The WJP also has been involved in Law Day programs cosponsored by the Virginia Holocaust Museum and the Virginia Law Foundation. The programs brought together people of different disciplines to discuss such topics as human rights and hate speech, to strengthen understanding of the rule of law.

On the other hand, the *Index* found that the U.S. criminal justice system ranks fourth among all countries surveyed in adjudicating criminal cases in a timely and effective fashion, as well as in guaranteeing due process of law and protecting rights of the accused in U.S. courts. However, in terms of people’s perceptions of the criminal justice system’s equal treatment of defendants regardless of ethnicity, national origin, and socioeconomic status, the United States was found to lag behind income peers included in the sample.

Despite the *Index’s* methodological strengths, its findings must be interpreted in light of certain inherent limitations. While the *Index* is helpful in tracking the “temperature” of the rule-of-law situation in the countries under study, it does not provide a full diagnosis or dictate concrete priorities for action. A 95 percent confidence interval for the *Index’s* nine factors is available at the statistical audit conducted by the European Commission’s Joint Research Centre. For further details, visit [www.worldjusticeproject.org](http://www.worldjusticeproject.org).

**Endnotes:**

- 1 The World Justice Project is the vision of William H. Neukom, a past president of the American Bar Association.
- 2 The WJP definition of the rule of law is at [www.worldjusticeproject.org](http://www.worldjusticeproject.org).
- 3 The third International Forum will take place in Barcelona in June 2011 and will be attended by as many as four hundred

representatives from more than ninety countries

- 4 Institute for Survey Research and American Bar Association, 1994; National Center for State Courts, 2006; Legal Services Corporation, 2005 and 2009; American Bar Association, 2010, among others.
- 5 The New York Times, “*Helping Ordinary People*,” November 16, 2010. Available on-line at: <http://www.nytimes.com/roomfordebate/2010/11/15/investing-in-someone-elses-lawsuit/helping-ordinary-people>



**Roderick B. Mathews** of Richmond is an officer of the World Justice Project, a past president of the Virginia State Bar and the American Bar Endowment, and a retired partner of Troutman Sanders LLP.

**Juan Carlos Botero** is director of the World Justice Project’s *Rule of Law Index*; he has led its development and implementation for three years. With law degrees from the Universidad de los Andes in Colombia and Harvard University, Botero previously developed international performance surveys for Yale University and the World Bank.