The death penalty is probably the single most controversial and divisive feature of our criminal justice system. The disagreements between those who support the death penalty and those who would curtail or abolish it rolls many narrower differences over how the criminal justice system should operate.

But death penalty supporters and opponents all agree on at least one thing: no one should be convicted of a capital crime or sentenced to death because of inadequate legal representation. Capital defense attorneys have long contended (with a lot of evidence to prove the point) that the quality of the defense provided by court-appointed attorneys often explains more about who lives and dies in the American system of capital punishment than do the facts of the crimes charged. From the other side of the issue, the importance of adequate defense representation is equally clear. George W. Bush oversaw more executions as governor of Texas than any state’s chief executive in American history up until that time, but in 2005, as president, he devoted part of a State of the Union Address to announcing that his administration intended “to fund special training for defense counsel in capital cases” because, as he put it, “people on trial for their lives must have competent lawyers by their side.”

It was in this spirit, seventeen years ago, that the Virginia Law Foundation began providing funding to support the Virginia Bar Association’s (VBA) fledgling Capital Defense Workshop (CDW). The impetus for the CDW was Virginia’s adoption, in 1992, of minimum experience and training requirements for lawyers who wished to be considered for appointment in capital cases. Since that first VBA Capital Defense Workshop in November 1993 the CDW has developed into Virginia’s best-attended criminal defense training program, and has provided up-to-date information and creative new ideas from Virginia and national leaders in the capital defense field. This annual day-and-a-half program always includes sessions on forensic science, ethics, and legal and legislative developments, and frequently explores such topics as how to negotiate life-saving plea agreements, how to recognize mental impairments in clients, and how to respond with sensitivity and compassion to murder victims’ families.

At the time of that first Capital Defense Workshop, the U.S. Supreme Court had only recently held, in two cases arising from Virginia, that seemingly minor procedural errors by court-appointed or volunteer lawyers could forfeit forever their condemned clients’ ability to have their constitutional claims heard by any court. Those rather draconian procedural rules are, if anything, even less forgiving today than they were in 1993, so the need to equip court-appointed lawyers with the knowledge and skill to navigate the complexities of capital trial litigation is as great as it ever was.

To be sure, in recent years national capital defense training programs have emphasized more intensive, “bring-your-own-case” training methods that engage existing defense teams with their own pending cases in small workshops. In fact, the modest federal funding that the Bush and Obama administrations have provided for capital defense training since 2005 have gone mainly to support such targeted, “bring-your-own-case” programs around the country (including two in Virginia so far). But as long as Virginia retains the death penalty, there will be a need for at least one large capital defense CLE each year to introduce new lawyers, and re-introduce experienced ones, to recent legal and scientific developments and to current best practices in death penalty trial defense. The Virginia Law Foundation’s steady, generous support for such a program, and the faithful work of the Virginia Bar Association in administering it, have met this pressing need for more than twenty years, and continue to do so now.