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## Introduction

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The opportunity to direct the Virginia Capital Case Clearinghouse this year during Professor Geimer's absence is both rewarding and challenging. Rarely does one have the opportunity to work with people who are uniformly and unequivocally dedicated to a common task. For the academic year 1997-98, I have just that opportunity as I work with thirteen law students who are dedicated to assuring that effective representation is provided in capital cases.

Unfortunately, there is no shortage of work in our endeavor to assure that representation is effective. Some members of the Clearinghouse are working steadily with counsel on dozens of cases, while others are reviewing all recent decisions in capital cases in order to provide meaningful analyses for the bench and bar. This *Journal* is one product of those efforts.

In this issue you will find, in addition to the case summaries, three enlightening articles. The first article examines proportionality review in Virginia, a mandate under the Virginia capital punishment statute, and concludes that the Virginia Supreme Court is not performing meaningful proportionality review. It suggests methods by which the Court could correct its review process and urges attorneys to raise the issue of the sufficiency of proportionality review at trial and on appeal. A second article focuses on the introduction of parole ineligibility evidence in the penalty phase of capital trials in which future dangerousness is not relied upon. The article correctly notes that parole ineligibility evidence is relevant and essential to all capital sentencings, not just those in which the Commonwealth is relying upon future dangerousness as the aggravating circumstance.

The third article in this edition of the *Capital Defense Journal* tackles the disappearing right of confrontation secured by the sixth amendment. Through an analysis of the United States Supreme Court's jurisprudence in capital and confrontation cases, the article suggests methods by which capital counsel can attempt to assure that defendants charged with capital offenses are not convicted based on unconfessed confessions of others.

Our *Journal* staff has also summarized for you all the capital and habeas cases from the United States and Virginia Supreme Courts and the Fourth Circuit Court of Appeals. In these decisions, the most consistent theme is the denial of relief. Framed as procedural default, trial judge's discretion, absence of proof of prejudice, and a "new" rule under *Teague*, all of the cases result in either affirmances of convictions or denials of habeas relief. Nonetheless, from each decision counsel can gain insight and instruction for the trial of the capital case.

We at the Virginia Capital Case Clearinghouse hope that you will mark your calendars now for **Friday, April 3, 1998**, our tenth annual CLE program. This year's program, held at the Washington and Lee School of Law, is entitled "**Defending a Life: Integrating the Theme for Life Throughout the Capital Case.**" While we are still in the planning stages, confirmed speakers include Stephen Bright of the Southern Center for Human Rights and Mark Olive, formerly of the Virginia Capital Resource Center. We hope you will join us for what promises to be an educational and motivational focus on integrating the theme for life.

As always, call on us when we can help.

Penny J. White  
*Acting Director*