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## MAIP Hosts Innocence Network Conference

Last April, the Mid-Atlantic Innocence Project (MAIP) hosted the 2005 National Innocence Network Conference, where experts and advocates convened to discuss recent developments in the fight to exonerate the wrongfully convicted.

This year's conference was the largest ever, with more than 250 attendees. Thanks to the hard work of former Project Director **Misty Thomas**, this year's attendees also said it was the best-organized Innocence Network Conference to date.

Several MAIP Board members were featured on panels at the conference, and many local law students volunteered at the event.

The conference reviewed current policies and initiatives, as well as useful strategies for investigating innocence cases.

Attendees included attorneys, law students, professors, reporters, staff and volunteers of innocence



*Exonerees Scott Hornoff, Joseph Amrine, Gordy Marsh, Chris Conover, Michael Austin, Beverly Monroe, and Darryl Hunt enjoy each other's company.*

projects, interested citizens and, most notably, more than a dozen exonerees.

The conference kicked off on Friday, April 1 with a panel discussing the importance of portraying wrongful convictions through the arts, particularly books and films. Exonerees **Kirk Bloodworth** and **Darryl Hunt** and filmmakers **Marc Simon** and **Ricki Stern** addressed the need to move beyond court opinions and newspaper articles to educate the

public about the tragedy of wrongful convictions.

Saturday morning featured a presentation of the ICVA report, which analyzed factors that led to wrongful convictions in Virginia. Created by MAIP, the report also recommended reforms to prevent such errors in the future.

Afterward, leaders of the Wisconsin and New York Innocence Projects and a representative of the Ameri-

*(Continued on page 5)*

## U.S. Supreme Court Grants Cert in Bustillo Case

In early November, the United States Supreme Court granted a Petition for Writ of Certiorari in the case of Mario Bustillo. MAIP became involved in Bustillo's case last year, when Virginia lawyer **John Kiyonaga** asked the Project to find counsel to help with his appeal to the Virginia Supreme Court in Bustillo's state *habeas* petition.

MAIP Board member **Paul Enzinna** recruited lawyers from his law firm, Baker Botts, LLP, to take the case. After the Virginia Supreme Court denied Bustillo's appeal, Kiyonaga and Baker Botts lawyers **Jeffrey Lamken**, **Mark Stancil**, **Michael Patillo**, and **Heather McCann** filed the cert petition.

*(Continued on page 3)*

Mid-Atlantic Innocence Project

4801 Massachusetts Ave., NW, Washington, D.C. 20016, (202) 274-4199

Our mission is to seek the exoneration and release of persons who have been convicted of crimes they did not commit in the District of Columbia, Maryland, and Virginia.

## *A Message From Our President: When the World Is Still Flat*



*Donald P. Salzman,  
MAIP President*

Long ago, before the great explorers sailed across the globe, people believed that the earth was flat. Technology – both ancient and modern – eventually debunked this belief and proved that the world is round. In the face of this established proof, anyone today who seriously claimed that the world is flat would be dismissed as a crackpot.

Sadly, in our modern criminal justice system, the "world-is-still-flat" mindset sometimes surfaces. In the face of indisputable DNA evidence proving that an innocent person has been wrongfully convicted of a crime, police and prosecutors sometimes insist that the exoneree is nevertheless guilty. The typical case arises in a rape and murder scenario where the prosecution maintains in the original prosecution that only one person committed the crime. Then, when DNA evidence proves that the rapist's semen does not match the convicted prisoner, the prosecution suddenly claims that the exoneree must have had an accomplice. Defense lawyers sometimes jokingly refer to this phenomenon as the "un-indicted co-ejaculator" theory. But this lighthearted reaction should not obscure the damaging short-term and long-term consequences that the prosecution's stubborn refusal to accept the truth can have on exonerees and crime victims alike. Honorary Board member **Kirk Bloodsworth's** torturous saga is one of many examples of this resistance.

In July 1984, nine-year-old Dawn Hamilton was raped and murdered in Baltimore County, Maryland. Children who were with Dawn right before she disappeared said a man wandered into the woods with her. The police, who were under intense pressure to solve this high-profile crime, were looking for one perpetrator. They focused their attention on Kirk, a former Marine and national-caliber discus thrower with no criminal record. Kirk did not match the description of the suspect, but five witnesses ultimately identified him as the man who walked into the woods with Dawn or who was in the area at the time of the crime. Kirk was convicted and sentenced to death. Maryland's highest court later overturned Kirk's conviction because prosecutors failed to turn over exculpatory evidence, but a second jury convicted him again and sentenced him to life in prison.

In April 1993, DNA tests conducted by a defense expert proved that Kirk's DNA did not match the semen stains found on Dawn's panties. He was released from prison two months later, after the FBI confirmed the results, making him the first death row inmate exonerated by DNA evidence. The investigating officers and prosecutors conceded that the evidence no longer supported Kirk's incarceration but still said he was somehow involved in the crime. Although Kirk was no longer in jail, he lived with a cloud of suspicion over his head; some in his small town on Maryland's Eastern Shore considered Kirk a child molester and child killer.

Kirk repeatedly requested that the DNA profile from Dawn's murderer be entered into a state-wide DNA data-

base, hoping that a match to the real killer would eliminate the cloud of suspicion surrounding him and would finally provide closure for Dawn's family. For ten years, however, the state failed to enter the DNA into the database. Finally, in 2003, the police entered the DNA into the database and immediately discovered that that the rapist's DNA matched that of Kimberly Ruffner, a prisoner who was serving a lengthy sentence for another Maryland sexual assault.

Ann Brobst, the lead prosecutor who twice urged juries to sentence Kirk to death, met with Kirk to tell him that his name had finally been cleared. Shockingly though, the two original police officers who investigated the case and one of the other prosecutors who worked on it continue to insist – in the face of incontrovertible proof of his innocence – that Kirk was somehow involved in the crime

How could the prosecutor in Kirk's case continue to believe in Kirk's guilt, despite indisputable proof that the system convicted the wrong person? A cynic might conclude that her resistance stems from malicious self interest – knowing Kirk is innocent but fearing the personal and professional consequences of acknowledging the truth. I don't actually think this is the case. Instead, I believe the answer more likely stems from a complicated interplay of two phenomena: the prosecutor's original "tunnel vision" and her natural, subconscious defense mechanism protecting her from a reality too painful to admit.

Tunnel vision begins with an intense, premature, and exclusive focus on one suspect. It blinds the prosecutor to compelling evidence that the original suspect might not be guilty or evidence pointing to an alternate suspect. Tunnel vision can continue even when DNA or other new evidence proves – by odds of billions to one – that the original suspect is innocent

Despite overwhelming evidence that the prosecutor made a terrible mistake, leading to a horrendous miscarriage of justice, the subconscious psychological defense mechanism insulates her from a horrible truth – that she nearly sent an innocent person to the gas chamber (in a death case) or to a life wasted in prison.

In Kirk's case, these phenomena did not keep him in jail for more than a few days after the prosecution's DNA tests proved his innocence. Other exonerees, however, have spent months or years in jail after DNA exculpated them, because authorities refused to admit the truth. Kirk's case shows that even after being released from prison, this official resistance can cast a cloud over an exoneree's name and stymie the prosecution of the real perpetrator.

Without a doubt, we know that the world is not flat. And, without a doubt, we know that Kirk and many other wrongly accused people are innocent. Unfortunately, I am not sure that anyone can stop some police and prosecutors who play roles -- even innocently -- in wrongful convictions from succumbing to this defense mechanism and refusing to acknowledge their mistakes. The drive for self-protection, sadly, is too strong.

## Supreme Court Grants Cert in Bustillo Case, Con't

As reported last year, Bustillo, a Honduran national, was wrongfully convicted of killing James Merry with a baseball bat. The sole issue at the 1998 trial was whether Bustillo or a man known as "Sirena" committed the crime. Sirena was identified as the killer by one witness who knew him and was seen on a flight to Honduras the day after the crime. At trial, the prosecution highlighted the lack of knowledge about Sirena and insinuated that he didn't actually exist.

Bustillo was not notified that he had a right, under Article 36 of the Vienna Convention on Consular Relations, to communicate with the Honduran consulate. The consulate was notified after Bustillo's conviction, and its help has been instrumental in building Bustillo's case. Through the consulate, the de-

fense was able to: (1) confirm that Sirena flew to Honduras the day after the crime; (2) obtain a photograph of Sirena, who several eyewitnesses have now identified as the man who killed Merry; and (3) locate Sirena and obtain a videotaped confession from him.

In addition to the violation of Bustillo's consular rights, police and prosecutors withheld from defense counsel information that inculpates Sirena and exculpates Bustillo. That information includes reports that an officer canvassing the area shortly after the murder stopped Sirena, who had "ketchup stains" on his clothing and gave inconsistent statements about where he was coming from.

Bustillo requested that the Court hear both the Vienna Convention issue and the *Brady* issue. The Court agreed to

hear the Vienna Convention issue. According to Stancil, who clerked for the late Chief Justice William Rehnquist, the case is novel because the Vienna Convention violation in this case genuinely prejudiced Bustillo.

Petitioner's briefs and *amicus* briefs are due on December 22, and oral argument presumably will occur in the spring of 2006.

## MAIP Signs *Amicus* Briefs in Two Cases

In the past year, MAIP has signed *amicus* briefs in two cases, one that was heard before the Wisconsin Supreme Court and one that supported a Petition for Writ of Certiorari to the United States Supreme Court.

The Wisconsin case involves the false confession of a 14-year-old boy with an IQ of 84 and a history of failing grades in school. After a five-and-a-half-hour interrogation in which he was repeatedly denied the opportunity to contact his parents, he confessed to committing an armed robbery.

MAIP argued that electronic recording should be mandated for all interrogations of juveniles. The Court agreed, holding that all custodial interrogations of juveniles should be recorded.

The Cert Petition involved the case of Robin Lovitt, who — at the time of publication — is scheduled to be executed in Virginia on November 30, 2005.

The physical evidence used to convict Lovitt of murder was destroyed after his conviction. While that evidence did not exclude Lovitt, it also did not exclude 40 percent of the population. Knowing that, state officials still allowed its destruction. Lovitt's lawyers argued that advances in DNA technology could have led to new DNA testing that might exonerate Lovitt.

MAIP argued that because the state failed to preserve this testable evidence, Lovitt should not be executed. A clemency application is now pending with Gov. Warner.

## Circuit Court Holds Hearing On Writ of Actual Innocence Petition in Carpitcher Case

In June of this year, the Roanoke County Circuit Court held a hearing on Aleck Carpitcher's Petition for Writ of Actual Innocence, making him one of the first people to receive a hearing since the writ was created in 2004.

Assisting MAIP Board member **Julia Sullivan** with Carpitcher's case have been volunteer attorneys **Robert Angle**

partner at Troutman Sanders. "The lawyers working on this case deserve tremendous credit."

In 1999, Carpitcher was wrongfully convicted of sexually assaulting a then 9-year-old girl and was sentenced to 73 years in prison. The girl was the only witness against Carpitcher, but he nonetheless was convicted.

The girl recanted her testimony in 2000 — nine months after Carpitcher was convicted — but Carpitcher could not present the evidence because of Virginia's 21-Day Rule. She has not changed her testimony since 2000, and Virginia's Writ of Actual Innocence statute has now made it possible to bring the evidence before the courts.

In November 2004, the Petition was filed in his case. The Virginia Court of Appeals ordered the Circuit Court to determine: (1) whether the girl recanted; and (2) whether she was pressured or coerced to change her story.

The Circuit Judge has issued his factual findings, and the Virginia Court of Appeals is expected to rule on the Petition within the next several months.

*"This is a landmark case because it is one of the first hearings ... held under the Writ of Actual Innocence statute."*

*- Steve Northup*

and **Kendra Arnold** of Troutman Sanders, **Kelly Makins** of Skadden, Arps, Slate, Meagher & Flom, and **Christopher Amolsch**.

"This is a landmark case because it is one of the first hearings involving non-biological evidence held under the Writ of Actual Innocence statute," said **Steve Northup**, a MAIP Board member and a

## Fowlkes Clemency Petition Pending before Governor

MAIP Board members **Steve Northup** and **Julia Sullivan**, along with volunteer counsel **Jennifer Rubin** of Sutherland Asbill & Brennan and **Kim Simmons** of Wallace King Marraro & Branson, PLLC, filed a clemency petition on behalf of Virginia's Larry Fowlkes in May 2004. The petition is supported by former Virginia Attorney General **William Broaddus** (currently of McGuire Woods Battle & Booth), and by singer **Bruce Hornsby**. Former American University students **Jason Fabrikant** and **Jennifer Sauberman** also have assisted with this case.

Mr. Fowlkes was convicted in 1995 of the murder of Ida Bowlin and the attempted murder of her husband. Thirteen witnesses, including a preacher and a police officer, place Mr. Fowlkes at church, many miles from the crime scene, at the time of the attacks. No physical evidence or eyewitness connects Mr. Fowlkes to the crime.

Mr. Fowlkes was convicted based on the testimony of a career criminal named Sheila Barbour Stokes. After her most recent crime spree, Ms. Stokes pleaded guilty to twenty nine felonies involving fraud and deceit. The plea requires her to stay out of Lunenburg County, Virginia for five years, except to attend court appearances. Ms. Stokes's testimony has been discredited through forensic reports, business records, and testimonial evidence, including her own recantation. Ms. Stokes's son also has come forward with evidence that the crime was committed by his mother's then-boyfriend, who also is the brother-in-law of the foreman of the jury that convicted Mr. Fowlkes.

No reasonable juror would convict Mr. Fowlkes based upon the evidence available today. Unfortunately, no jury has considered the evidence of his innocence, in part because of his incompetent trial counsel, Virginia's 21-day rule, and technicalities inherent in the federal *habeas corpus* statute. Mr. Fowlkes's counsel filed a clemency petition on his behalf in May 2004. That petition is still pending before Governor Warner.

## MAIP Advocates for Legislative Reforms in Maryland and the District of Columbia

In the past year, MAIP Board members **David Eppler** and **Don Salzman** – along with former Board member **Rich Gilbert** – have testified before legislative bodies in the District of Columbia and Maryland, advocating for reforms that would help prevent wrongful convictions.

In November 2004, Salzman and Gilbert testified before the District of Columbia City Council in support of the Electronic Recording Act of 2004 (2004 Recording Act). The 2004 Recording Act requires the Metropolitan Police Department (MPD) to record the interrogation of suspects in all serious felony cases; if not recorded, there is a presumption of involuntariness.

At the same time, Salzman and Gilbert also testified in support of the Eyewitness Identification Procedure Act of 2004, which would require the MPD to implement nationally recognized best practices for eyewitness identification procedures. The bill did not pass, but their testimony highlighted the problem of eyewitness misidentification, the number one cause of wrongful convictions.

The 2004 Recording Act passed, but in May 2005, Salzman and Gilbert testified *against* the Electronic Recording Procedures and Penalties Act of 2005 ("2005 Recording Act"), which would strip the sanctions provision from the

2004 Recording Act. The 2005 Recording Act still is pending before the City Council. Despite that bill, MPD is working with an Alexandria company that installs videotaping equipment in all interrogation rooms.

In March 2005, Salzman testified before the Maryland House Judiciary Committee in support of House Bill 973, which: (1) allowed expert testimony on eyewitness identifications; (2) required the preservation of the record of the identification; and (3) restricted in-court identifications when there has been no pretrial identification. The bill did not pass, but MAIP has been working with a coalition in Maryland to educate police departments about best practices for eyewitness identification procedures.

At the same time, Eppler testified in support of House Bill 974, which required prosecutors to certify the exercise of due diligence in providing defense counsel with exculpatory information. The bill did not pass, but it did help raise awareness of another major cause of wrongful convictions, the failure to turn over exculpatory evidence.

Their testimony on behalf of such important legislation furthers one of MAIP's most important goals, working to prevent wrongful convictions.

## Project Changes Name, and Other News in Brief

- In February 2005, the Board of the Innocence Project of the National Capital Region voted in February to change the organization's name to the Mid-Atlantic Innocence Project.
- In November 2005, MAIP sponsored Q&A sessions after the Washington, D.C., premiere of *After Innocence*, a documentary chronicling the stories of seven wrongfully convicted men after their release from prison. The sessions featured Honorary Board members **Kirk Bloodsworth** and **Beverly Monroe**, as well as film producer **Marc Simon** and Life After Exoneration Project founder **Lola Vol-len**. The film, which won the Special Jury Prize at the Sundance Film Festival, will air on Showtime in 2006.
- *The Life and Times of Darryl Hunt*, a documentary about the exoneration of a North Carolina man, will be playing on Thursday, March 2, 2006, at 7 p.m. at the Creative Alliance, 3134 Eastern Avenue in Baltimore. Creative Alliance also sponsored a showing of the documentary *Deadline* in October.

## MAIP Hires New Executive Director

In July, the MAIP Board of Directors announced the hiring of **Shawn Armbrust** as its Executive Director. "After conducting a national search, we found an exceptional leader in our own backyard," said Don Salzman, President of MAIP. "Shawn is an expert in righting wrongful convictions."

Shawn takes over for **Misty Thomas**, who left to attend Georgetown University Law Center (GULC) as a Public Interest Law Scholar after leading the organization for three years. Shawn's hiring represents a milestone for MAIP, because she is the first attorney hired to lead the organization.

Shawn comes to MAIP with a wealth of experience in the innocence community. As an undergraduate at Northwestern University's Medill School of Journalism, Shawn was instrumental in achieving the 1999 death row exoneration of Anthony Porter.

From 1999 to 2001, Shawn was the case coordinator at the Center on Wrongful Convictions at the Northwestern University School of Law, screening requests for counsel and leading public education events and development efforts. Through the Center, she also worked with the Commission appointed by former Illinois Governor George

Ryan, who stayed, and ultimately commuted, all capital sentences in the state.

From 2001 to 2004, she was a Public Interest Law Scholar at GULC and graduated with many awards and distinctions, including Order of the Coif. As a Senior Articles and Notes Editor of the *American Criminal Law Review*, she wrote her note on compensation of the wrongfully convicted. Prior to coming to MAIP, Shawn clerked for the Honorable Gladys Kessler of the United States District Court for the District of Columbia.

"As excited as we are to have Shawn as our leader, we are sad to see Misty Thomas leave," said Salzman. "Without Misty's tremendous work, the Project would not be in the position it is today." Misty was MAIP's first professional director, and she presided over much growth and achievement.

During Misty's tenure, MAIP hosted the National Innocence Conference, published the report of the Innocence Commission of Virginia, and led legislative and policy initiatives in Maryland and the District of Columbia. "We are delighted Misty chose to do her legal training in DC and will remain involved in our work through the Georgetown student group," Salzman said.

## Innocence Network Conference, Con't

can Academy of Forensic Sciences discussed the vital role of DNA in exonerations. They also addressed the role of other forensic sciences, such as hair analysis and ballistics, in causing wrongful convictions.

Saturday's "brown-bag" roundtable sessions provided attendees with the opportunity to break into smaller groups to discuss their thoughts on a variety of issues in a more intimate setting. Grass-roots advocacy, litigation, and the importance of student involvement were among the topics discussed.

The afternoon featured break-out sessions offering more detailed discussions on four different substantive tracks: Investigation, Litigation, Reform and Scholarship, and Arts. Attendees listened to panelists tackle the sensitive subject of contacting victims during

investigations into wrongful convictions, among other topics.

The evening closed with a screening of *After Innocence*, a film depicting the experiences of seven exonerees and the challenges they faced upon re-entering society.

Sunday's final session continued the discussion about adjusting to life after exoneration. Innocence Project members discussed national, regional, and local solutions for overcoming barriers to exonerees' readjustment to society. Wrapping up a wonderful and informative weekend, exonerees **Beverly Monroe** and **Darryl Hunt** told their stories and suggested means of helping others to cope with the emotional stress of life after exoneration and the difficulty of restoring faith in the criminal justice system.

## New and Departing MAIP Board Members

MAIP has a wonderfully active 15-member Board of Directors. During the summer months, **Richard Gilbert**, **Clarence Goldberg**, and **Binny Miller** left the Board due to other commitments. In addition, law student board members **Debbie Anderson**, **Cameron Arnold**, **Maggie Finzen**, **Donald Murphy**, and **Kim Summers** completed their terms with the Board. MAIP greatly benefited from their services and appreciates their efforts.

MAIP's 2005-2006 Board continues its tradition of attracting board members with demonstrated commitment to and expertise in criminal justice issues in our region.

**Mark Kappelhoff** manages Akin Gump's *pro bono* program. He previously served as the principal deputy chief of the Criminal Section of the Civil Rights Division of the U.S. Department of Justice.

**Gail Laster** was an attorney with the Public Defender Service for the District of Columbia, General Counsel for the Department of Housing and Urban Development during the second Clinton Administration, and Practitioner in Residence at the American University's Washington College of Law.

**Seth Tucker** is a partner at Covington & Burling with a diverse *pro bono* practice, including representation of death-row inmates in Alabama and Virginia. His representation of Virginia death-row inmate Derek Barnabei was profiled in the *Legal Times*.

**Douglas Wham** is the recently appointed Deputy Public Defender for Arlington County and the City of Falls Church. He was formerly a sole practitioner specializing in criminal defense and post-conviction matters and has supervised the Georgetown Innocence Project for the past five years.

MAIP also welcomes its new law student board members: **Molly Cannon** of Catholic University, **Jen Cheung** of American University, **Lauren Hopkins** of Georgetown University, **Erin McFarland** of the University of the District of Columbia, and **Mary Schmid** of the University of Virginia.

## Innocence Commission for Virginia Report Released in March *MAIP Begins Similar Investigations of Exonerations in Maryland*

In March, the Innocence Commission for Virginia (ICVA) Released *A Vision for Justice: Report and Recommendations Regarding Wrongful Convictions in the Commonwealth of Virginia*, the product of a two-year study of wrongful convictions in the state.

The ICVA, was only the second commission of its kind established in the United States. It was a joint project of MAIP, The Constitution Project, and the Administration of Justice Program at George Mason University, exhaustively studying 11 exonerations in Virginia, isolating seven major causes of wrongful convictions, and recommending a series of reforms that would minimize the risk of convicting the innocent.

The 11 men whose cases are featured in the report spent a combined 118 years in prison for crimes they did not commit. The ICVA believes that these horrible miscarriages of justice deserve a full investigation. The government fully investigates airplane crashes to determine what caused the incident and what can be done to avoid similar problems in the future. Convicting the innocent also is a tragedy and deserves similar treatment.

However, the report “is as much about crime reduction as it is about how to protect the innocent,” said ICVA Steering Committee Chair and MAIP Board member **Jon Gould**. Indeed, MAIP knows of at least four brutal crimes that would not have been committed if the real perpetrators had been

caught.

The ICVA report would not have been possible without the *pro bono* work of 11 law firms in the District of Columbia and Virginia. *Pro bono* lawyers prepared exhaustive investigation reports of each exoneration and research papers on each suspected cause of wrongful convictions, which formed the basis for the final report.

In the past few years, Virginia has made enormous strides — such as the relaxation of the 21-Day Rule — to protect the innocent. As the Report details, however, a tremendous amount of reform still is necessary to ensure that the innocent are protected. The ICVA hopes to begin working with law enforcement authorities and legislators in Virginia soon to achieve that goal.

As it works to achieve reforms in Virginia through the ICVA, MAIP also is beginning similar work in Maryland. Four law firms have already begun *pro bono* investigations of ten exonerations in Maryland.

The Maryland project is not an innocence commission, but MAIP hopes that the investigations will similarly enable it to recommend reforms that would help reduce the risk of convicting the innocent in Maryland.



## MAIP Hosts Book Signing and Lecture with Sister Helen Prejean

This spring, MAIP co-sponsored a lecture and hosted a dinner in honor of Sister Helen Prejean, the award-winning author and tireless crusader against capital punishment.

Sister Helen gained prominence as the author of the best-selling book *Dead Man Walking: An Eyewitness Account of the Death Penalty in the United States*, which was later developed into a movie that received four Oscar nominations.

She was visiting the Washington, D.C., area to promote her new book, [\*The Death of Innocents: An Eyewitness Account of Wrongful Executions\*](#), and to speak at an event co-hosted by MAIP at American University's Washington College of Law (WCL).

Sister Helen spoke about her life's journey to abolish the death penalty. She offered a harsh critique of a hopelessly flawed death penalty system that, she maintained, inevitably will lead to



Don Salzman, Sister Helen, and Anne Proctor of Covington & Burling enjoy the evening at David Eppler's home.

the execution of innocent people. At a reception following the talk, attendees had the rare opportunity to meet the outspoken anti-death penalty icon and to receive autographed copies of her new book.

Sister Helen praised the work of MAIP and similar organizations. Given the error-prone criminal justice system, she said innocence projects play a criti-

cal role in ensuring that the wrongfully convicted have one last chance to secure justice and their freedom.

Following the events at WCL, MAIP hosted an intimate reception and dinner to honor Sister Helen and celebrate her invaluable efforts on behalf of death row inmates. Several of Sister Helen's friends and MAIP Board members attended the dinner, which was hosted at the home of Board Vice President David Eppler.

A gifted storyteller, Sister Helen regaled the dinner guests with humorous anecdotes. She also inspired them with her passionate opposition to capital punishment and unrelenting efforts to abolish the death penalty. She spoke enthusiastically about her new initiative, The Moratorium Campaign, which promotes a nation-wide death penalty moratorium.

## Spotlight on a Firm: Covington & Burling

Covington & Burling has a rich history of public service. The firm has long recognized and embraced the idea that lawyers have a professional responsibility to provide those in need with free legal services, and it is no wonder that wrongful convictions work and capital cases, some of the most complex and high stakes cases in the system, have become a cornerstone of Covington's *pro bono* program.

Last year, MAIP Board member **Seth Tucker**, a Covington partner, helped MAIP and the ICVA review cases in which Virginia courts had wrongfully convicted defendants of serious crimes. The resulting report recommended several changes designed to make the criminal justice system fairer and more accurate. Most recently, Covington has agreed to help MAIP with efforts to implement the ICVA's recommended reforms.

Covington's commitment to public service also is exemplified in its representation of capital defendants. 121 prisoners have been exonerated and released from United States death rows, an alarming statistic that has underscored the need for legal help in capital cases. Indeed, in 2001, Supreme Court Justice Ruth Bader Ginsburg observed: "I have yet to see a death case among the dozens coming to the Supreme Court on eve-of-execution stay applications in which the defendant was well represented at trial.... People who are well represented at trial do not get the death penalty."

Death penalty cases account for almost seven percent of the firm's *pro bono* hours. Nearly 30 partners and associates have worked on death penalty cases in the past few years. The firm's capital defense work includes nine active cases in five different states.

DNA advances have played a major role in the exoneration of at least 14 death row inmates. Covington has been involved in at least three capital cases in which DNA evidence was a major issue. For example, Edward Russell DuBose, an Alabama death row inmate, was denied the services of a DNA expert at trial. Covington represented DuBose in his direct appeal, successfully arguing that capital defendants in Alabama have a constitutional right to a DNA expert when DNA evidence is an important part of the case.

DNA evidence also is important to

the case of Anthony Tyson, who also is on Alabama death row. At trial, the state's evidence included blood samples from sneakers that allegedly belonged to Mr. Tyson and that supposedly contained blood from one of the victims. The state, however, could not provide samples to defense counsel. Defense counsel failed to secure a jury instruction, offered by the Court, that because of the State's failure, the jury should not presume the correctness of the evidence.

"The firm hopes to secure a new trial for Mr. Tyson based upon defense counsel's ineffective representation as demonstrated, in part, upon his failure to appropriately address the State's mishandling of the DNA evidence," says

Kurt Calia, a Covington partner working on the case.

The firm recently has begun work on capital cases at their earliest stages, taking to heart Justice Ginsburg's remarks about the importance of adequate representation at trial. Through a program called the Fair Trial Initiative, Covington lawyers are assisting criminal defense counsel in a Maryland death penalty trial.

Covington's *pro bono* program is recognized as one of the nation's best, and in 2005 *The American Lawyer* again ranked it as number one based on a combination of the firm's total *pro bono* hours and the number of lawyers who performed more than 20 hours of *pro bono* work.

## MAIP Forms Group to Aid Exonerees

In April 2005, MAIP hosted the first meeting of the Mid-Atlantic Network of Exonerees (MANE), a group intended to help exonerees with the overwhelming difficulties they face upon their release from prison.

MAIP Board member **Julia Sullivan**, who developed the idea to create MANE, established three goals for the first year of the new group: (1) building a regional network of exonerees; (2) recruiting lawyers to handle compensation claims; and (3) drafting a federal statute that would give exonerees access to services for ex-offenders, which many exonerees are denied.

MANE has successfully brought together exonerees from the Mid-Atlantic region on two occasions. The first meeting was held in April, and Maryland exoneree **Michael Austin** was elected to lead the group. At the meeting, the exonerees asked that MAIP provide them with speech training, so they can more effectively tell their stories and help spur policy changes that would help prevent wrongful convictions.

In November, MAIP Board member **Angela Ciccolo**, the Deputy General Counsel of the NAACP, put together a wonderful training for exonerees. Hosted by Arnold & Porter, the all-day event culminated in a mock press conference. NAACP Communications Director **John White** provided feedback on each presentation.

MANE also is working with Honorary Board member **Carol Elder Bruce** and her firm, Venable, LLP, to draft legislation that would give exonerees access to federally funded programs for ex-offenders. Exonerees often are denied access to such programs, despite facing similar problems as ex-offenders, such as lack of job skills.

Finally, MANE has begun recruiting lawyers to represent exonerees who wish to pursue compensation claims, both through statutes and through the courts.

**MAIP thanks its most generous volunteers and contributors. Without your support, our important work would not be possible.**

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## MAIP Student Group Update

- Students at American University's Washington College of Law continue to investigate three cases as part of a field-work class taught by Virginia criminal defense attorney **Gerylee Baron**.
- The University of the District of Columbia's David A. Clarke School of Law has started its second year as a project and is actively working on one case. UDC also hosted this year's 2005 Innocence Network Conference, and volunteers from UDC were critical to the success of the conference.
- Catholic University's Columbus School of Law is investigating two cases, and its leaders are working to train students for this important work. Executive Director **Shawn Armbrust** will soon train students to investigate.
- Students at Georgetown University Law Center currently are investigating 15 cases, and student interest in the Project is stronger than ever. Last February, the Project co-sponsored Criminal Justice Awareness Month. The highlight of the month was a speech by **Ronald Cotton**, a North Carolina exoneree, and **Jennifer Thompson**, the woman who misidentified him. The Project also recently co-sponsored a screening of *Deadline*, and **Shawn Armbrust** led a Q&A session after the film.
- Students at the University of Virginia Law School are investigating four cases. They also co-sponsored a screening of *After Innocence*, featuring a panel discussion with exoneree and Honorary Board Member **Marvin Anderson**, Pennsylvania death row exoneree **Nick Yarris**, and author **John Grisham**. Several students are working with Prof. **Brandon Garratt** to examine *habeas* petitions of people who were later exonerated, and others are helping with the preparation of Earl Washington's civil suit.
- Thanks to the work of third-year law student **Laura Hastay**, Washington & Lee's Students for an Innocence Project (SFIP) group may achieve its goal of establishing a MAIP chapter in their school's curriculum by fall 2006. In October, SFIP sponsored a speech by MAIP Board President **Don Salzman** and Honorary Board member **Kirk Bloodworth**. Ronald Cotton and Jennifer Thompson will be speaking at W&L this spring.

Please support the Mid-Atlantic Innocence Project.  
Complete the enclosed donation card and send it in today.

### MAIP Honorary Board

Our Honorary Board is comprised of a diverse and bipartisan group of local lawyers, law school deans, current and former judges, prosecutors, policymakers, area exonerees, and other prominent Americans who support MAIP.

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*Professor of Law*  
Georgetown University Law Center

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