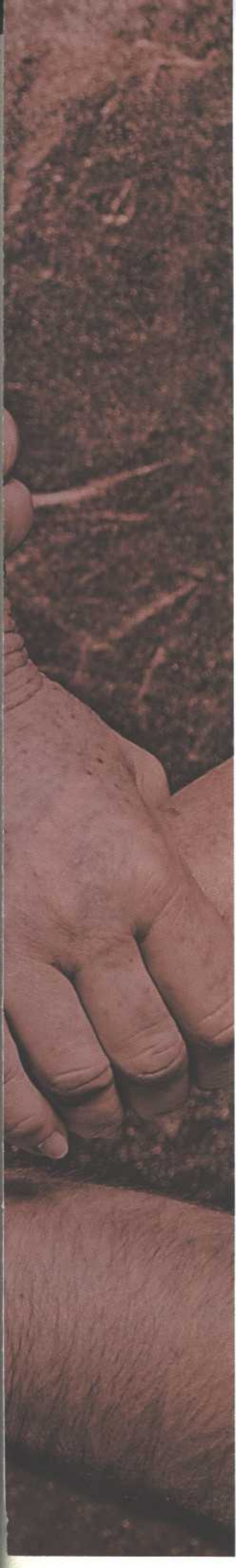


# From civil to criminal—overnight

by Andrew J. Reitz



Due to the declining number of cases that have reached trial in recent years, young lawyers are finding courtroom experience increasingly rare. Pro bono work may be the solution to this problem and at the same time provide a win-win-win situation for all parties involved.



**M**any of you may remember reading a report published by the American Bar Association called "The Vanishing Trial." That report explored the causes and effects of the civil litigation phenomenon in which fewer and fewer civil cases are being tried by juries. For most law firms, that phenomenon makes it harder for junior lawyers to gain trial experience. To solve the problem, Charlie Faruki, managing partner of Faruki Ireland & Cox, in Dayton, worked with Montgomery County Public Defender Glen Dewar, to create an externship program in which attorneys from Faruki Ireland & Cox would spend three months working at the public defender's office on felony cases.

The goal of the program is to provide pro bono services while teaching young litigators how to try cases, manage clients, argue motions and develop general trial skills. The program was designed to be a "win-win-win" project, in which the public, the public defender's office and the court would benefit, while the firm's associates gained additional courtroom experience. Firm associates who participate in the program rotate through the public defender's office to gain practical courtroom experience. The law firm loans associates to the public defender's office for a period of time and continues to pay their salaries. The associates assist the public defender's office and its clientele, while gaining practical legal experience, including courtroom experience, early in their careers. The result of the program is that indigent criminal defendants obtain quality representation, the burden on the public defender's office is lessened, and the firm's associates gain courtroom experience by handling matters such as preliminary hearings, motions to suppress and felony jury trials.

As a young litigator who participated in the program, I can tell you that it has been an invaluable experience. Not only have I learned important skills, but I also understand the importance of providing top quality legal service to those persons who cannot afford it. In February 2005, I walked into the public defender's office with little understanding of our criminal justice system and with even less knowledge of criminal law. However, with outstanding assistance from the lawyers at the Montgomery County Public Defender's Office—and a few client interviews at the jail and some preliminary hearings in Dayton Municipal Court—I quickly adapted to the challenges that litigators face on a daily basis, including maintaining client control, developing courtroom presence, negotiating with opposing counsel and establishing a reputation as a lawyer.

During my time in the program, I tried (as co-counsel) a felonious assault and aggravated robbery

case, in which I assisted in jury selection, gave the opening statement and cross-examined some witnesses. Later, I was lead counsel in a domestic violence and abduction case. Although my firm represents clients in complex business litigation disputes, the skills I learned while I worked at the public defender's office are readily transferable.

Many law school graduates display ambition, knowledge and initiative. They are well-versed in legal theory and can identify and analyze legal issues. However, most young attorneys lack meaningful courtroom experience, namely because the number of jury cases has declined in recent years. Although the number of civil jury trials is decreasing, top-tier trial attorneys still need strong oral advocacy skills. Without them, they are less effective for clients, especially when it comes to deposing witnesses, negotiating with opposing counsel, advocating on behalf of a client in front of a judge or persuading a jury.

In an attempt to solve this problem, some firms have matched inexperienced attorneys with seasoned litigators to garner courtroom experience. Some firms encourage young litigators to participate in volunteer law groups that offer pro bono work, which could lead to trial experience. The externship program in which I worked, however, is the best solution because it provides beneficial courtroom experience on a daily basis for an extended period of time. It also provides an invaluable contribution to the community.

Individual judges from the Montgomery County Court of Common Pleas have praised the program. According to Judge Barbara Gorman,

The eagerness of the program's participants was like a breath of fresh air. I'm sure that their enthusiasm and professionalism were as greatly appreciated by the public defender's office as they were by the Court. The attorneys brought excellent skills with them, and, in return, gained unique experiences. The willingness of Faruki Ireland & Cox to lend their employees to the public defender's office is also greatly appreciated in these days of tight county budgeting.

Judge Jeffrey Froelich agreed: "I probably expected the enthusiasm and energy, but I was truly impressed with the preparation, thoroughness and trial skills of these new professionals."

Young lawyers will continue to face the challenge of overcoming the "vanishing trial." Law firms, however, can assist young attorneys by implementing a similar externship program. Why should law firms make a large investment in their attorneys and the community? Because it works. ■

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