

Spring 2007



Points of Interest

POINTS OF INTEREST is the newsletter of the Tennessee Bar Foundation and IOLTA program (Interest On Lawyers' Trust Accounts)

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VORP: Making the best of a bad situation

By Sara Wexler

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Around 70 percent of first-time juvenile offenders will commit a second crime, according to Berti LeWinter, executive director of Chattanooga's Victim Offender Reconciliation Program (VORP).

But VORP, a non-profit restorative justice program housed in Juvenile Court, has a recidivism rate of less than 5 percent, said LeWinter.

"I want people to know about restorative justice and conflict resolution and that there's another way of dealing with things," said LeWinter. "Everybody's so quick to have somebody arrested or to sue. And I want people to realize that there's another way of dealing with these sorts of things."

Most of VORP's offenders have been charged with theft under \$500, but the program also sees some vandalism, burglary and criminal trespass cases. Once a case comes to court, it goes to a hearing officer. If the offender pleads guilty to the charge, the officer might refer the young person to VORP.

The offenders must meet certain criteria before LeWinter will accept them into

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Preserving our Past: **The Legal History Project**

To preserve both the long and distinguished history of the legal profession in Tennessee as well as the fascinating stories that make up that history, the Fellows of the Foundation launched a “Legal History Project” (LHP) in 1998. The Project interviews senior attorneys about their lives and their experiences in the law and questions them about the changes, challenges and successes of the profession as a whole. Each interview is recorded on digital videotape and reproduced in DVD or VHS format. The Foundation makes these fascinating, individual narratives available free of charge to colleagues, friends, historians — anyone with an interest in these intriguing men and women and the history they’ve made.

Since the Project’s inception, the LHP Committee has selected 48 lawyers and judges to participate (with seven more scheduled during 2007). The interviews are conducted in hometowns from Kingsport to Memphis and points between (see next page) by one of the Foundation’s Fellows, and it’s up to the Committee to identify the most appropriate interviewer. In many instances, it’s a law partner; however, in two cases, sons interviewed their fathers, and in another, a daughter interviewed her mother. Whatever the relationship, the interviewers are admirers, and, as they prepare, they become students of that interviewee’s life and career.

In the approximately 120 recorded hours, quite a bit has been discovered about the interviewees. Many “lions of the bar” went off to law school having never met or seen a lawyer in action. They were often told that because they “liked to argue” or were “hard-headed” lawyering was *the* profession for them.

Almost all of the interviewees served in the military, a time that ran the gamut from “enforced idleness” to comradeship and hilarity to fierce battle far from home. Several returned to Tennessee to nurse



All Legal History Project interviews are now part of the Regional History and Genealogy Center collection of the Germantown Community Library.

serious wounds or illnesses before picking up the threads of their lives.

The narratives told by these lawyers are filled with the details of legal careers — from the persuasion needed in the old Justice of the Peace courts (sometimes held outdoors on a hot day), to arguments in the velvet-curtained Supreme Court of the United States. Settlements took place between individual divorce disputants and between representatives of major industries. Some clients were grateful; others were ... difficult.

In addition to information about their vocation, the interviewees are asked to recount their leadership positions in local government and political and social movements. For example, many Memphis interviewees have given riveting accounts, from various perspectives, of the 1968 strike by sanitation workers that led to the assassination of Martin Luther King and its aftermath. Those are unclouded recollections of how lawyers helped lead a city through crisis.

While the Legal History Project has collected tales of lawsuits, colleagues and irascible judges from the lawyers’ side, the perspective from Tennessee’s bench has not been neglected. Sixteen of the interviewees served on one or more levels of state court or at the federal district court. The individual recollections of the judges include

Interviewees 1998 – 2006

EAST

Foster D. Arnett – Knoxville*
Senator Howard H. Baker, Jr. – Huntsville
Bernard E. Bernstein – Knoxville
Paul Campbell, Jr. – Chattanooga
Jac Chambliss – Chattanooga
William T. Gamble – Kingsport
G. Wilson Horde – Knoxville
Judge William H. Inman – Morristown
Judge James H. Jarvis II – Knoxville
Selma Cash Paty – Chattanooga
Donald F. Paine – Knoxville
Judge Chester S. Rainwater, Jr. – Dandridge*
John M. Smartt – Knoxville
Judge Shirley B. Underwood – Johnson City
M. Lacy West – Kingsport*

MIDDLE

James O. Bass, Sr. – Nashville
Justice Adolpho A. Birch, Jr. – Nashville
Cecil D. Branstetter – Nashville
Jerry C. Colley – Columbia
Justice Frank F. Drowota III – Nashville
F. Evans Harvill – Clarksville
William C. Keaton – Hohenwald*
Judge Irvin H. Kilcrease, Jr. – Nashville
James F. Neal – Nashville

William J. Peeler – Waverly
Senator John R. Rucker – Murfreesboro
W. Valerius Sanford – Nashville*
Wilson Sims – Nashville
Judge Whitney Stegall – Murfreesboro
Claude G. Swafford – Jasper
Charles Trabue, Jr. – Nashville*
Charles H. Warfield – Nashville

WEST

Newton P. Allen – Memphis
Judge Bailey Brown – Memphis*
Judge Wyeth Chandler – Memphis*
Judge W. Frank Crawford – Memphis
Lewis R. Donelson III – Memphis
Theophilus J. Emison – Alamo
W. Jerry Flippin – Milan
Frank J. Glankler, Jr. – Memphis
Benjamin L. Hooks – Memphis
Judge Odell Horton, Sr. – Memphis*
Judge Lyman E. Ingram – Dyersburg
Thomas R. Prewitt – Memphis
Judge Paul R. Summers – Somerville*
S. Shepherd Tate – Memphis
George C. Thomas – Dresden
Judge Hewitt P. Tomlin, Jr. – Jackson*

*deceased

these pronouncements: east Tennessee lawyers will appeal over the tiniest issues; lawyers from west Tennessee “river” counties litigate, while those from “interior” counties negotiate and an entire book can be edited while presiding, with “one eye on the witness” and the other on the manuscript.

All interviewees, lawyers or judges, are asked at the end of each taped session about retirement. Most (in their 70s, 80s and 90s) eschew even the thought. Some are still practicing full-time, some part-time and others come into their offices, on a daily basis, available to give advice. They are at work because “it’s challenging — every day there’s something new that occurs” and “I’m just still having a lot of fun practicing law.”

These quips are just snippets of stories that should be seen and heard as the interviewees tell them in their own voices, with their own laughter

and (more often than would have been thought) their own tears.

All of the interviews are available from the Foundation, but now there is another source. The Foundation is exceedingly pleased to announce that the new Regional History and Genealogy Center of the Germantown Community Library has purchased the entire Legal History Project collection and will add subsequent interviews as they are completed. The DVDs will be available at the library, but, of paramount importance, they will also be listed in the library’s on-line card catalog (www.readgermantown.org).

Thanks to this first commitment (other libraries are currently considering making purchases from the collection), the wit, wisdom and viewpoints of Tennessee lawyers will be available worldwide. ■

— Barri Bernstein

“We’re here
to be a
community
resource.
We’re here
to help the
kids, to
help them
learn from
their mis-
takes and
become
productive
citizens, not
to get
caught up
in the
juvenile
justice
system.”

VORP: Making the best of a bad situation

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the VORP program.

“It has to be a non-violent property offense,” said LeWinter. “And they have to plead guilty because this process doesn’t work if you’re trying to talk your way out of it. We’re asking the courts to look at the cases on an individual basis, so sometimes we’ll take a case if it’s not a first-time offender, but the court does have that option.”

Because VORP is strictly a voluntary program, the victim of the crime must also be willing to participate. Once both parties are on board, they meet with a trained volunteer mediator.

“The program gives the juvenile a chance to actually meet with his or her victim and work out a restitution plan,” said LeWinter.

This plan could include monetary compensation in the case of shoplifting or in the restoration of property for crimes of vandalism.

More important than the restitution, however, is the face-to-face dialogue between victim and offender. This interaction can help victims understand that, in most cases, the crime committed against them was a random act and that they weren’t singled out for personal reasons.

“I think if the victims had an opportunity to really understand the program, we’d probably have more participation than we do,” said LeWinter. “Because who doesn’t want to give a kid a second chance? The majority of the cases have been good, where there’s this transformation that happens during the meeting between the victim and the offender.”

Former VORP Program Coordinator Jean Pitts agrees.

“A lot of these kids think it’s not a big deal — in terms of how what they do affects so many people,” said Pitts. “So it’s always interesting to see how they respond. Usually they come around, and the program has a big impact in that they are really appreciative of it. It can be very powerful.”

An example of this is a case in which some teenagers had used an empty house as a neighborhood hangout.

“The landlord had bought a house in a dis-

tressed area and fixed it up, and she did this for a couple reasons,” said LeWinter. “She really wanted to be part of this movement to fix the area and so she did it as a benevolent act. And part of it was she also wanted to make rent money on this house.”

Along with safety and liability concerns, the landlord had also been hurt on a deeper level.

“More than anything else, she was hurt personally because she felt betrayed by this community that she was trying to help,” said LeWinter. “And so she got to relate that to these kids who didn’t have a clue. They didn’t understand why this woman took it so personally and why she got so upset. They got to talk about it all and come to terms. She didn’t ask for any restitution at all. She just felt so good about the opportunity to meet the kids and to tell them who she really was and what she was all about.”

In many ways, said LeWinter, VORP makes the best of a bad situation.

“We tell the kids when they first come through Juvenile Court that this is a bad situation that we hope becomes a good situation — because this is something that turned out to be a really positive, good thing, because it opened up all this communication.”

While VORP currently gets its referrals mainly from Juvenile Court and attorneys, LeWinter has been seeking community input for new ways to apply the program. One possibility is to work with local schools.

“We met with some school principals and some school resource officers to find out if when there’s a problem at school — if a kid steals something from a teacher or vandalizes school property — instead of a school resource officer filing a citation and filing it in Juvenile Court, what if those participants were willing at that point to say ‘Yes, we’ll go through VORP.’ And then if it isn’t resolved in 60 days or 90 days or whatever, then the citation can be filed.”

With more than 350 cases in less than four years, VORP is always in need of more volunteers to mediate sessions.

“Attorneys could volunteer,” said LeWinter.

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Shoplifting is one of the offenses that brings teenagers to Community Reconciliation/VORP. As part of the restitution contract, retail stores often require the perpetrator to read a specific book and write a report on its content and potential relevance to his or her life. Reproduced below, exactly as it was submitted, is one such essay from a 16-year-old girl.

I read "The Money Book for the Young Fabulous & Broke" by Suze Orman. Who happens to be New York Times number one best selling author. The book taught me a lot but what I learned the most was how to manage my money, which I think is what I was suppose to. The book can help you restore your credit if your already in debt and can help you avoid dept before you start it, which I think is wonderful! Everything happens for a reason. That's what I always was taught. So maybe my mishap with Wal-Mart was to help me have a better future. I am glad that I was caught shop-lifting. I have learned so many valuable lessons from it that I'm quite sure I wouldn't have learned if I hadn't got caught. I also honestly feel like this incident has made me a better person.

Back to the book. It was so amazing I learned what a FICO score was. It stands for Fair Isaac Corporation. "Your FICO score is based on your spending and bill paying habits" (page 22). I learned that the higher your FICO score is the better chances you have of being able to get loans, how much interest you will pay on them, automotive insurance, and even if you qualify for any insurance. Most adults that I've asked don't even know what a FICO score is, let alone know their own. It also taught me how to be responsible and what not to do by being irresponsible. The breaks down do's and don'ts, which is really helpful because it's so easy to mess up.

Since my being caught stealing from Wal-Mart I have had to do a lot not only to show my parents that I can be responsible but also to gain their trust back. I got a job. I've been holding it steady for a little over a month now. It's hard too. I didn't expect it to be easy but its difficult trying to balance school with working and staying on top with my grades but I know that it has to be done. I am determined. I know that I can do anything in the world and the VORP program showed me

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that. They didn't judge me for my mistake. They also let it be known that that know good people can make bad choices and luckily I was blessed with a second chance. Everyone doesn't get a second chance.

Suze Ormand's book also gives advice. Advise about cars, homes, investing vs. saving, love, marriages, and so much more. When Suze Orman first moved to California she lived in her van because she couldn't afford to rent an apartment. She couldn't afford to pay for the van but her brother loaned her the money. She showed me that she came from nothing, basically how I am, and worked hard to become successful. She inspires me so much! Not only was this a good book for me but also for my parents. She talks about credit card bills and debts and I'm sure if this book had been available to them then they would have been grateful.

At first when I was asked why I stole I couldn't answer the question, but now I know why I did it. I did it because I was ignorant. I tried to blame it on the fact that I have a really rough life. I lived with my grandmother all my life up until I was thirteen. Then she died. She was fifty years old, too young to die. She was my everything and I thought without her I was nothing. She gave me guidance and love. But I know now that because I had her I was lucky. She taught me so much and I thank her for that but, she's gone now and I have realized that my life must go on. I was ignorant of the path I was heading down and ignorant of the lifestyle I was living. I was unaware then but now I am aware.

I love life and I desire to be somebody in life so I can't afford to destroy my life and throw it away by doing things that aren't smart or legal like stealing. I've experienced it and now I'm done. I would just like to apologize to Wal-Mart and thank the VORP Program for giving me the opportunity of another chance.

2007 IOLTA Grants Total \$1,000,000

Organized by location of headquarters:

EAST TENNESSEE

- Athens, The H.O.P.E. Center, Inc. — **\$7,000**
- Bristol, Abuse Alternatives, Inc. — **\$5,000**
- Chattanooga, Community Reconciliation, Inc. — **\$7,500**
- Chattanooga, Southeast Tennessee Legal Services — **\$10,000**
- Johnson City, CASA of Northeast Tennessee — **\$5,000**
- Kingsport, CASA for Kids, Inc. — **\$8,000**
- Knoxville, CASA of East Tennessee, Inc. — **\$5,000**
- Knoxville, Catholic Charities of East Tennessee — **\$7,500**
- Knoxville, Community Mediation Center — **\$8,800**
- Knoxville, Knoxville/Knox County Family Justice Center — **\$11,000**
- Knoxville, Legal Aid of East Tennessee, Inc. — **\$137,012**
- Knoxville, Parent Place — **\$10,000**
- Knoxville, Safe Haven Center — **\$5,000**
- Knoxville, The YWCA of Knoxville Victim Advocacy Program — **\$8,000**
- Morristown, CEASE — **\$5,500**
- Morristown, Youth Emergency Shelter, Inc. — **\$9,000**
- Oak Ridge, CASA of the Tennessee Heartland — **\$12,000**
- Oak Ridge, The YWCA of Oak Ridge — **\$6,000**

MIDDLE TENNESSEE

- Columbia, CASA of Maury County, Inc. — **\$5,000**
- Columbia, Hope House — **\$7,000**
- Columbia, The Mediation Center — **\$6,000**
- Cookeville, Aging Services for the Upper Cumberland, Inc. — **\$9,000**
- Cookeville, Dismas House of the Upper Cumberland — **\$11,000**
- Cookeville, Genesis House, Inc. — **\$5,000**
- Cookeville, Mediation Services of Putnam County, Inc. — **\$12,000**
- Cookeville, Putnam County CASA — **\$6,600**
- Crossville, Avalon Center: Domestic Violence and Sexual Assault Program — **\$8,000**
- Crossville, VORP/Community Mediation Center, Inc. — **\$6,500**
- Franklin, Williamson County CASA, Inc. — **\$2,000**

- Gallatin, Sumner County CASA — **\$5,000**
- Hohenwald, Mid South Mediation Services — **\$7,000**
- Lebanon, Wilson County CASA — **\$5,000**
- McMinnville, Families In Crisis, Inc. — **\$6,000**
- Murfreesboro, CASA of Rutherford County — **\$5,000**
- Murfreesboro, Domestic Violence Program, Inc. — **\$15,400**
- Nashville, CASA, Inc. of Nashville — **\$10,000**
- Nashville, Dismas House of Nashville — **\$5,000**
- Nashville, Domestic Violence Intervention Center — **\$2,500**
- Nashville, Legal Aid Society of Middle Tennessee and the Cumberland — **\$156,704**
- Nashville, Morning Star Sanctuary — **\$5,000**
- Nashville, Reconciliation, Inc. — **\$10,000**
- Nashville, The Exchange Club Family Center — **\$10,000**
- Shelbyville, CASA of the Center for Family Development — **\$5,000**
- Springfield, CASA of Robertson County, Inc. — **\$2,500**
- Tullahoma, Coffee County Children's Advocacy Center — **\$2,500**

WEST TENNESSEE

- Brownsville, Exchange Club Carl Perkins Center for the Prevention of Child Abuse — **\$3,750**
- Jackson, Madison County CASA, Inc. — **\$2,500**
- Jackson, West Tennessee Legal Services, Inc. — **\$46,694**
- Memphis, CASA of Memphis & Shelby County, Inc. — **\$7,600**
- Memphis, Community Legal Center — **\$28,000**
- Memphis, Memphis Area Legal Services, Inc. — **\$97,190**
- Memphis, The Exchange Club Family Center of the Mid-South, Inc. — **\$10,000**
- Memphis, The YWCA of Greater Memphis — **\$10,000**

STATEWIDE

- Nashville, Tennessee Coalition Against Domestic and Sexual Violence — **\$25,000**
- Nashville, Tennessee Justice Center — **\$171,250**



The Tennessee Bar Foundation publishes *Points of Interest*.

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Tennessee IOLTA Profile — 2006

IOLTA Accounts	3,539
Number of banks	154
Average total deposits in IOLTA accounts	\$188,333,945
Average monthly IOLTA income	\$181,866

VORP: Making the best of a bad situation

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“They would just have to excuse themselves from a case if they knew anything about it — but so do all the other volunteers, because you have to be able to be objective and to be neutral.”

Also, since VORP is a non-profit, it needs additional funds to supplement the money it gets from grants and its two yearly fundraisers.

“If I had my wish list, I’d love to get a corporate sponsor,” said LeWinter. “Maybe somebody whose business was geared toward young people — maybe a law firm that deals with juveniles.”

LeWinter is also looking for opportunities to speak to professional groups, such as chambers of commerce or Kiwanis programs.

“We want community awareness,” said LeWinter. “Here we are, we got our first case

in October of 2002. And still people say ‘VORP, what’s that?’ We’re here to be a community resource. We’re here to help the kids, to help them learn from their mistakes and become productive citizens, not to get caught up in the juvenile justice system.” ■

Editor’s note: The Tennessee Bar Foundation continues to recognize the efforts of organizations that work to find meaningful ways to resolve disputes. Community Reconciliation is one of six Tennessee mediation organizations that will share IOLTA grants of \$47,800 during 2007. Since 1990, IOLTA grants of more than \$500,000 have been made to organizations that offer VORP-style mediation for juveniles and, in some cases, adults.

Nonprofit Organization
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