

December 29, 2004

Dear Client:

As 2004 draws to a close, we want to bring you up to date on some recent developments at the firm and in the law.

Fred Warren Bennett, the founding partner of the firm, was recently recognized by *Washingtonian* magazine as one of the top criminal defense attorneys in the Washington, D.C. area. Mr. Bennett, long recognized as a leading defense attorney, has now been named by his fellow attorneys as a true star among stars. This honor places Mr. Bennett in the top 1% of all attorneys in the area.

A number of highly talented and experienced attorneys have joined Fred Bennett in the newly formed firm of Bennett & Bair, LLP. Former Maryland Solicitor General Gary Bair, another attorney with a statewide reputation for excellence, brings a wealth of criminal law experience to the firm. Mr. Bair, previously an Assistant Public Defender and Assistant Attorney General, has handled hundreds of state and federal criminal cases at all levels. Last year, he argued two criminal cases in the United States Supreme Court. The firm also recently hired two associates: Michael Pearson and Rachel Kamins. Mr. Pearson was an Assistant State's Attorney in Prince George's County from 1999 to 2004. Ms. Kamins was an Assistant Attorney General for the State of Maryland from 1993 to 2004. A more complete description of all attorneys in the firm can be found in the attached firm brochure.

Also included in the firm brochure is a list of representative cases in which relief was granted to our clients. We are currently handling more than 160 cases in the state and federal courts. Several appeals are pending in the Court of Special Appeals of Maryland, the Court of Appeals of Maryland, and the United States Court of Appeals for the Fourth Circuit. Numerous post conviction cases in many counties of the State are also being litigated. Finally, the firm is representing other clients at the trial level throughout the State.

We would like to bring to your attention some recent changes in the law that might affect your case or that of others you might know. First, a law that went into effect on October 1, 2004, makes drug treatment available as an alternative to incarceration in a larger number of cases than previously permitted. Sections 8-505, 8-506, and 8-508 of Maryland's Health General Article have always provided alcohol/drug treatment as a sentencing option for judges. In an effort to promote the use of these seldom employed provisions, the legislature has expanded the authority of these laws and provided substantial funding for implementation. As a result, alcohol or drug treatment instead of imprisonment is now available to qualified defendants in any criminal matter and at any stage of

a case. This includes pre-trial, post-trial, and post-sentencing. In fact, the new provisions may be employed even if all appeals, post-convictions, and modifications for reduction of sentence have been exhausted. If a court decides a defendant is now an appropriate candidate for a "Health General disposition," he or she will be placed under court supervision and sent to an appropriate treatment facility. Upon successful completion of the program, the defendant is likely to be released back into the community. If you or anyone that you know is interested in seeking relief under these new provisions, please contact our office.

Secondly, you should be aware that anyone sentenced on or after October 1, 1995, is now subject to a ten-year statute of limitations on the filing of a post conviction petition. This change in the law does not apply to persons sentenced before October 1, 1995, who are not subject to any time limitation on filing post conviction petitions. Note, however, that everyone is now subject to a one petition limit, with a provision only for a motion to reopen post conviction.

Third, there has been a change in the rule relating to motions for reconsideration of sentence. You still have ninety (90) days from sentence to file the motion, but there is now a time limit on when a judge must rule on the motion. For persons sentenced before July 1, 2004, the judge can hold the motion and rule at any time in the future. For persons sentenced on or after July 1, 2004, a judge must rule on a motion for reconsideration within five years of the date of sentencing.

Finally, some persons who are no longer serving prison sentences or on probation or parole have a remedy to challenge a prior conviction, even though they do not qualify for post conviction. The Writ of *Coram Nobis* has been expanded over the past several years and permits a challenge to a conviction where, for example, a person faces deportation based on a relatively minor criminal conviction or an enhanced federal sentence based on a prior invalid state conviction.

If you or someone you know has any questions about any of these matters, please feel free to contact us, in writing or by calling collect at 301-220-1570. We wish you a healthy 2005.

**THE LAW FIRM OF BENNETT & BAIR, LLP**