

## Dream Teams

I am tired of hearing about criminal defense “dream teams.” This obsession with who is a “great lawyer” and who is a “major player,” makes no sense. We are not sports figures. This isn’t a game. We are lawyers and we work in the criminal justice system. All this talk about “dream lawyers” or “super lawyers” or “world-class lawyers” demeans who we are and what we do. Worse, we have been sucked into it and we now unfairly do it to ourselves. We find ways of relegating our brothers and sisters to different castes, different levels of criminal defense advocacy. As far as I can tell, these artificial classifications make little sense.

### Where the ‘Real Lawyers’ Are

When I was a public defender, I started in the county court. (Is there any other place to start?) I couldn’t wait to get to the felonies, where the “action” was, where the “real lawyers” were. When I finally got to the felony division, I was told there was a “homicide list” — where the real good lawyers were to be found. That told me that my fellow defenders did not yet consider me a really good lawyer. Once I made the homicide list, the question was whether I was strong enough to defend multiple homicide cases while running the rest of my caseload. Thank goodness I lived in a time when we had no death penalty. Now that it is back, the death penalty lawyer is at the top of the homicide list.

Of course, between county court and felony court there is now the juvenile criminal defense lawyer. And, let’s not forget the appellate lawyers. Some of them say they aren’t real trial lawyers, they are “just” appellate lawyers. But then there are the appellate lawyers who handle issues of “constitutional significance” and I guess that separates them from the rest of the appellate lawyers. Don’t forget the distinction between the white-collar criminal defense bar and lawyers who do street crimes. Even in the white-collar group you have to sort out those who handle the complex “data base” cases from those who handle just straightforward (small file) white-collar cases.

### Artificial Distinctions

Then there are the lawyers with a “national” practice. As far as I can tell, that includes a lot of lawyers who fly to a community where they have few contacts, little inside information and no clout. These lawyers are somehow elevated above a lawyer who merely gets in the car and drives hundreds of miles within the state. But all that driving within the state clearly has to be ranked above the lawyer who only does work in a particular town or city. Doing work in your own city really doesn’t tell the story unless we know whether you did the work in federal court, district court, juvenile court, or county court. And now we are back to where we began. We’re back to artificial distinctions which only serve to separate us from our brothers and sisters.

I don’t like it and I won’t do it anymore. I think you shouldn’t do it either.

I have a friend who tries a great case. He is always confronting prosecution experts and taking them apart with razor-sharp cross-examinations. Every time he’s working on a cop, it’s a cop who has rehearsed the story a hundred times, and is going to tell it beautifully, even if it doesn’t match what really happened. My friend’s clients are going to be presumed guilty, and there is always a public outcry over the kind of cases he accepts. The community groups organize to change the laws so that his clients can’t get a fair trial. He is what’s called a “DUI lawyer.”

He just used his talents recently in the defense of a court-appointed, first-degree murder case. But since his reputation was built on his defense of DUI cases, he’ll still be known as a “DUI lawyer.”

But all I see is a criminal defense lawyer who has put his heart and soul into the representation of the criminally accused. He has learned his trade, he follows every nuance of the law, he can spot a weakness and bite through an unprepared prosecutor quicker than a shark eats a tuna. Yet somehow we’ve got to put a label on him, and the label serves to set him apart from other criminal defense lawyers.

When I was a public defender, we had a woman attorney in the office who was just super. She just had a way with people and she was exceptional in the courtroom. She

rose quickly through county court, had a stellar record in juvenile court, and then got a much sought-after position in felony court. But, she didn’t like it. She got there and she had the same skill, the same commitment, yet something inside told her she wanted to be with accused kids. She went back to the juvenile courts by choice. I don’t want to guess how many hundreds or thousands of young people she helped. I bet a bunch of them didn’t make their way up to my felony court because she helped straighten them out while there was still time. But still, some folks more or less dismissed her. She was after all, a “juvenile defender,” not a “felony defender;” as if there were a difference in her love for justice, or the amount of injustice that she faced daily.

Now people want to ask me if a particular lawyer is a “dream team” lawyer, whatever that is. Or worse, I see journalists who assume that the gravity of the crime describes the quality of the lawyer. In other words, the more atrocious the crime, presumably, the finer we are for simply being the lawyer on the case. We all know better. We’ve seen good lawyers practice in obscurity, and we’ve seen some pretty shoddy work on some fairly big cases. In the end, it’s not the size of the case but the heart of the lawyer that makes the difference.

(Continued on page 28)



LARRY S. POZNER

## President's Column

(Continued from page 5)

### Who the Great Lawyers Are

I know who the great lawyers are. It has nothing to do with hype. Don't tell me what you're going to do when the camera lights are on. When the reporters are filling the courthouse, and when everybody wants your autograph or a sound-bite for the nightly news. Tell me what you are going to do when nobody is looking, and when the client is poor, and when the charge is trivial. Show me what you're going to do if it's only a small injustice you are fighting. Then I will tell you if you are a great lawyer.

Show me what you are going to do in the dead of winter when it's Friday at 4:15 p.m., the courthouse is getting dark, nobody is around, you're exhausted, and you just want to go home. You know that the deal isn't atrocious, but you know deep down there is another move you can make. It means you are going to have to come back yet another day, or you're going to spend a few more hours, or you're going to have to go cash in some personal chips with this prosecutor, or you are going to have run a risk, or you are going to have to do any of a thousand things you've stored in your arsenal for the day you'd need them. Maybe you have a client who will take any deal because he is tired of being beaten-up by the system. Maybe he wouldn't know the difference between so-so and great representation, but you do. So you stay a while longer and you work a bit harder, and the deal gets maybe 10 percent better, but it got better, and you know it. Maybe nobody else knows it. There's nobody to tell but yourself, or maybe your best friend who is also a criminal defense lawyer.

I'd like to know your name. I want to be in the trenches with you. I want to serve on your team. Because whenever you are dedicated in that way, and prepared to do battle for your client, whatever your court, whatever your cause, you are the dream team. ♡

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1. Publication Title		2. Publication Number		3. Filing Date	
The Champion		0 7 4 4 - 9 4 8 8		9/22/98	
4. Issue Frequency		5. Number of Issues Published Annually		6. Annual Subscription Price	
Monthly except Jan/Feb and Sept/Oct which are bi-monthly		10		\$85	
7. Complete Mailing Address of Known Office of Publication (Not printer) (Street, city, county, state, and ZIP+4)				Contact Person	
National Association of Criminal Defense Lawyers 1025 Connecticut Ave., N.W., Suite 901, Washington, DC 20036				Telephone	
8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer)					
National Association of Criminal Defense Lawyers 1025 Connecticut Ave., N.W., Suite 901, Washington, DC 20036					
9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank)					
Publisher (Name and complete mailing address)					
National Association of Criminal Defense Lawyers 1025 Connecticut Ave., N.W., Suite 901, Washington, DC 20036					
Editor (Name and complete mailing address)					
Richard Bing, National Association of Criminal Defense Lawyers 1025 Connecticut Ave., N.W., Suite 901, Washington, DC 20036					
Managing Editor (Name and complete mailing address)					
Richard Bing, National Association of Criminal Defense Lawyers 1025 Connecticut Ave., N.W., Suite 901, Washington, DC 20036					
10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)					
Full Name		Complete Mailing Address			
National Association of Criminal Defense Lawyers		1025 Connecticut Ave., N.W. Suite 901 Washington, DC 20036			
11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box <input checked="" type="checkbox"/> None					
Full Name		Complete Mailing Address			
12. Tax Status (For completion by nonprofit organizations authorized to mail special rates) (Check one)					
The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes:					
<input checked="" type="checkbox"/> Has Not Changed During Preceding 12 Months					
<input type="checkbox"/> Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)					
PS Form 3526, September 1995				(See Instructions on Reverse)	

13. Publication Title		14. Issue Date for Circulation Data Below	
The Champion		November 1998	
15. Extent and Nature of Circulation		Average No. Copies Each Issue During Preceding 12 Months	Actual No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)		12,500	13,000
b. Paid and/or Requested Circulation			
(1) Sales Through Dealers and Carriers, Street Vendors, and Counter Sales (Not mailed)		0	0
(2) Paid or Requested Mail Subscriptions (Include advertiser's proof copies and exchange copies)		9000	9500
c. Total Paid and/or Requested Circulation (Sum of 15b(1) and 15b(2))		9000	9500
d. Free Distribution by Mail (Samples, complimentary, and other free)		2500	2500
e. Free Distribution Outside the Mail (Carriers or other means)		0	0
f. Total Free Distribution (Sum of 15d and 15e)		2500	2500
g. Total Distribution (Sum of 15c and 15f)		11,500	12,000
h. Copies not Distributed			
(1) Office Use, Leftovers, Spoiled		1,000	1,000
(2) Returns from News Agents		0	0
i. Total (Sum of 15g, 15h(1), and 15h(2))		12,500	13,000
Percent Paid and/or Requested Circulation (15c/15g x 100)		70%	73%
16. Publication of Statement of Ownership			
<input checked="" type="checkbox"/> Publication required. Will be printed in the November 1998 issue of this publication.			
<input type="checkbox"/> Publication not required.			
17. Signature and Title of Editor, Publisher, Business Manager, or Owner		Date	
Richard Bing Editor		9/22/98	
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