

Our Responsibility

In the early 1960s, seminars, symposiums and serious informal discussions were held between the American Bar Association and representatives of the electronic and print media, on the subject of a fair trial and the free press.

Television was in its infancy. In its thirst for growth and purpose as a cash cow, its impact on high-profile legal cases was apparent. The bar attempted to promulgate rules to protect individuals from being tried in the media and to shield jurors from prejudice. The rules were to be self-enforcing, but the effort was short-lived. The attraction of the visual media was overwhelming.

I was invited by a staff member of *The Roanoke Times and World News* to be on a panel at the University of Virginia. Because of a scheduling conflict, I asked another member of our law firm to attend. When he returned, he said prophetically, "There's no way we'll protect jurors from pretrial publicity. Television will make more money than the invention of the wheel or the telephone or the discovery of electricity."

Until then, newspapers were somewhat sensitive to the power of the printed word. Some laws restricted the publishing of certain specific facts of pending legal cases. For example, the law and good taste prohibited the printing of details of an electrocution (which was the only means of carrying out the death penalty). It could be reported that the prisoner died at a certain time. The manner of the disposition of the body was also allowed.

There was no need for gag orders, because attorneys knew the legal protocol: "No comment." Otherwise, you would be labeled a "publicity hound."

Times have changed. We are in an era of total disregard of an individual's rights to an impartial trial, free of pre-judgment.

Recently, a television "genius" learned of an apparent homicide of a beautiful young pregnant woman whose husband resem-

bled the quintessential good-looking young American male. Although it is not uncommon for a husband or lover to kill his pregnant mate, this television genius sensed sex appeal or commercial schmalz in this story.

The husband was arrested: *voilà*, the birth of the Laci Peterson Murder Trial Show.

The cast and material included television talking heads, commentators, legal experts, showcasing lawyers, forensic pathologists, anchor people, those searching for new careers or facelifts, sleuths, special programs featuring interviews of friends and family, satanic cult rituals, leaks and man-on-the-street and computer opinion polls and fan mail.

The "show" originated from the most logical setting: the left coast land of the California crazies—Hollywood style.

As prologue, the state attorney announced that a conviction would be a "slam dunk." The husband contacted a high-profile attorney who had previously represented him. The attorney declined to represent him, so the court appointed a public defender. Seeking the spotlight, a lawyer named Geragos appeared on television telling his adoring fans how damning the evidence was against the husband. But, then Geragos was hired to defend the husband! He announced that he had a sudden "change of heart."

At trial, the judge conducted the proceedings to select jurors. He inquired, "Have any of you read or heard about the Peterson case?" Several jurors raised their hands. "Those of you who raised your hand: Can you disregard what you read or heard and render a true and correct verdict according to the law and the evidence?" The jurors said they could.

This inquiry was as effective as telling jurors that during the trial, they must disregard the pink elephant standing in the corner of the courtroom.

Due to the media's transgressions, the only safe and proper venue for the Peterson

trial was in the Brazilian jungle, Iceland or Ethiopia.

The immoderate application of the freedom of the press has contaminated our world. The feeding frenzy is defended on the grounds of the "public's right to know." The true motivating force is the media's insatiable desire to enrich itself.

No voices in opposition are heard from the legal community. It has succumbed to the lure of "the tube." Lawyers can profit from television exposure even though citizens may be harmed by trial-by-ink-and-air. (Consider the commercials of some members of the legal profession filled with puff lines and theme songs [Still, most of the public selects lawyers the old-fashioned way—by reputation.])

Let's not forget that with the many freedoms with which we are blessed, there is a duty to exercise each responsibly.

The communication industry will continue to increase its momentum and fail the citizenry. Few care, comment or protest.

Yours truly,
Harvey S. Lutins, Roanoke

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