David Pratt, Winter Term 2006: Field Study Internship on the Legal System

To the majority of those who participate, observe, and read about it, the legal system is a mysterious yet omnipresent force in our lives. After completing an internship, it is still hard to describe exactly what the legal system is. It is part language, part philosophy, part literature, part economics, part politics, and ultimately and hopefully, the best chance for justice in the world.

What I saw, and what I learned is miniscule in comparison to the influence and the law has on our lives. But it was also a much broader glimpse than the average citizen sees. While observing, I saw drug dealers walk. I saw heroin addicts speak of redemption through their right of elocution (the right to address the court). I watched wayward youth get committed to facilities. I watched judges sustain to objections to the procedural errors of over-zealous prosecutors, and I witness the genius, amoral tactics of public defenders who did everything in their power to win for their clients every protection guaranteed by the law.

A woman, in her late thirties, sat beside a middle-aged man. She was sobbing, softly, but as the witness testimony continued, the sobs began a steady crescendo. A kindhearted, elderly bailiff handed her a handkerchief, but the comfort from the gesture was short-lived. For almost twenty minutes, a thirteen-year old boy had been recounting the injuries he received as this woman, seated in the defendant's chair, had assaulted his slightly-built body with tons of steal.

The impact lifted him. The windshield rejected him. Gravity grounded him. The impact broke both arms and an eye socket. The asphalt stole his skin. Shocked, confused, and hysterical, the woman stopped her vehicle, rung her hands, screamed how she didn't want to go to jail, and finally drove the boy to the hospital. Finally, there were no further questions. The state rested. And the emotionless, middle-aged man sitting next to the defendant rose to his feet, and came to life. It was time for the cross-examination. Was this child to blame for the accident?

"When the vehicle impacted you, where, in relation, to the side of the road, were you standing?" The tone was almost menacing.

"I don't understand the question…"

"Well could you estimate—"

"Objection! Counsel is asking the witness to speculate," interjected the prosecutor.

"Sustained. Counsel, frame the distance in terms of a distance …: 'how many feet from X, were you, etc.'"

The defense attorney complied. The boy insisted he couldn't remember. But this defense attorney was not about to settle for such an obvious dodge.

"You can ONLY remember what you want to, can't you?!" demanded the defense.

"Objection!"

"Sustained."

Another inappropriate yet strategic question. It didn't matter that it was stricken from the record. It certainly wasn't stricken from the judge's mind.

At this point, the defense had already raised doubt as to the woman's guilt. The boy *had* jumped on her car before, in a parking lot. The boy's interest in some young ladies, who were present on both occasions, was established. The boy had also tried to show off for the girls in the past. Why then, when the boy could have easily avoided the approaching vehicle by sidestepping into the nearby grass did he testify that he jumped at and onto the moving vehicle?

The woman was a responsible driver. No accidents. No traffic convictions in the last five years. Nothing. Having raised several doubts, the defense rested. And the judge decided that the doubts were reasonable.

"I have no idea where half of this testimony was leading," he barked. "I am not convinced beyond a reasonably doubt that this woman is guilty of anything. There is too much discrepancy in witness testimony on the relevant facts. I hereby find the defendant Not Guilty."

And just like that, the trial was over. The woman tried to regain her composure, but the feeling of relief was almost as overwhelming as the ordeal itself.

Later on that day a criminal case was on the docket: a man was charged with distributing a controlled substance. He was a construction worker, heavily built, swarthy, and (probably with some coaching from his attorney) dressed for success. He looked like

a model citizen. Judging from the outcome of the trial, the investment in that cheap suit was worth every penny.

"Your honor!" protested the prosecutor. "I can have the chemists here tomorrow to testify. We'd only lose an hour—I don't see any reason to disallow this evidence, even in light of [the 1979] case law."

"In the interest of judicial economy, I will not grant the state the requested time to call additional witnesses."

"The State respects your honor's interest in judicial economy …" even in exasperation, the courtroom remained a model of decorum. The accused was obviously guilty. The chemical analysis showed the substance he was peddling was the chemical that is Xanax. The case was open and shut. But the prosecution hadn't done its homework.

According to the obscure 1979 statute, the State had to notify the Defense ten days in advance if it planned to use a chemist's lab report without the chemist's testimony. This is to help the defense attorneys to plan their defense, and call their own experts if they want to call the validity of the test into question. Unfortunately for the state, the prosecutors were unaware of this detail, and had never encountered a similar problem in the past.

Upon the judge's request, the bailiff opened the door, and the jurors filed back in.

"Your honor. Without the chemical analysis, the State cannot proceed. We move to null-proc [technical language for drop] the charges."

The defendant left with a smirk on his face. Next time, he would be more careful.

It was cases like these that drew my attention, held it, and piqued my curiosity. Throughout the internship, I took copious notes, wrote down questions, met with the lead State prosecutor, and had the questions answered.

"In law," he explained, "there are exceptions to *every* rule, and law is definitely no exception to this saying." Perhaps, no truer words had ever been spoken.

The State goes to incredible lengths to protect defendants' rights, even if they plead guilty. Before accepting a guilty plea, the judge must be satisfied of several things. First, he must be convinced that there was a factual basis for the charges. Second, the judge demands satisfactory answers to a long list of questions. Do the defendants

understand what is being said to them at that very moment? Do they understand English? Are they under the influence of alcohol and/or drugs? Are they suffering withdrawal from either alcohol and/or drugs? Has anybody threatened them ? Has anybody threatened their friends or family or loved ones, or made them otherwise afraid to enter a plea of guilty? And finally, are they pleading guilty, because they are in fact guilty, *and* because of the plea agreement?

Once the judge is satisfied with the answers, he will accept the plea. Interestingly, 90% of criminal cases end in plea agreements—they seldom go to trial.

When they do go to trial, however, what happens in that courtroom is bound by hundreds of years of law, libraries full of books, and judges who run their courtrooms anyway that they please. For example, the state is required to provide the defense with "discovery," a process by which the defense gets to interview witnesses and examine the State's evidence. The defense is entitled to receive exculpatory evidence from the state, or evidence that suggests the defendant is *not* guilty. These are just examples.

Courtroom testimony is also bound by rules, and again, none of these are absolute. For example, "hearsay testimony," or notes/statements given and/or prepared outside a court, is usually inadmissible. However, as long as the hearsay testimony is given to establish a related event—but not to establish the truth of the matter—a judge may allow it. The rules are endless, seemingly contradictory, and hidden away from the public eye in law libraries and other resources jealously guarded by the Bar Association. Though each attorney offered valuable insight into the law, the most profound statement was made by a Bail Bonds salesman.

According to him, he had never had a client who hired a top-notch attorney EVER do any prison time. Is our justice system corrupt? Somewhat. But keep in mind (and the book *One-L* says this best), that all the case law, all of our constitutional law, and every legal principle important enough to make it into law books resulted from a case brought before the courts by people with the resources to push it through the legal system. Perhaps this is unavoidable, but it is certainly not and ideal situation.

The internship was one of the most interesting experiences of my life. I was never bored; there was never a dull moment. When the state's attorney was busy, I was shaking hands with the defense attorneys. When the defense attorneys were litigating, I was

talking to other defendants. When the court was in recess, I was eating lunch at a local restaurant. When the courts adjourned, I headed over to the Bail Bonds salesman to better understand his business and to get his take on the legal system. This essay could go on and on and on. It already has. And so does my interest in the law and our legal system.