



Issue 1
October 1995

THE o.b.server

A MONTHLY NEWSLETTER SERVING THE OCEAN BEACH COMMUNITY

A Case of Trial and Error

BY ATTORNEY BOB LaCROIX

How could it have happened? In a world where a dozen people can not seem to agree that the sky is blue, how could twelve individuals have concurred on the verdict of the century in under four hours?

Perhaps, you say, because blue was not the color in question. No, friends. As convenient -- as black and white -- as that conclusion may seem, race was not the overriding factor in the OJ Simpson verdict.

The case of OJ Simpson, like the practice of law in general, is a case of trial and error.

There is a doctrine in the legal field known as the fruit of the forbidden tree. According to this train of thought, any tampering which takes place with a piece of evidence must exclude not only that evidence, but *everything related to it*, from consideration by a jury.

Now, of course, the defense did not have proof that tampering took place with any evidence. However, it is not the responsibility of the defense to prove

anything in a trial. The burden of proof is always on the prosecution.

The prosecution, in this case, was not able to fulfill its burden of proof due to a very unfortunate choice which was made before the trial even began.

The prosecution chose as a pivotal witness a man who was found to be a liar. This man -- and we all know his name -- swore to tell the truth, the whole truth, and nothing but the truth. Once it was discovered that he had not told the truth on one issue, his credibility was lost on all issues.

Realistically, the jury could not help but have a shadow of a doubt regarding any testimony or evidence related to this man. A shadow of a doubt is all it took to let OJ go free.

It is at a time such as this that we must ask the question, "Is it better to let ten guilty men go free than to send one innocent man to jail?" The answer must necessarily be yes.

This is the basis of our American judicial system. While our system of justice

is not perfect, it remains the best in the world.

Under this system, we can go to sleep at night knowing that our sons and daughters will not be beaten with bamboo rods, nor indiscriminately kidnapped off the street to serve in our military, nor imprisoned twenty years for speaking out against the government.

The American judicial system succeeds each day in protecting citizens from the emergence of a police state. That was the message sent to the world by the Simpson jury.

As an attorney, I take pride in serving as a watchdog for the preservation of my clients' rights. However, lawyers are not perfect; sometimes we, too, must learn by trial and error.

Bob LaCroix is an attorney who has served the Ocean Beach Community since 1979. If you would like to request a topic for an upcoming issue of The o.b.server, or if you have a legal question you need to discuss, feel free to call Bob's office at 223-2527.