

## **We Need to Renew Faith in Our Legal System**

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Our society faces a pivotal challenge: preserving faith in our system of justice. We enjoy liberty, freedom, and material advantages envied by other nations. Our democratic system once seemed ordained and secure; but dark, menacing clouds loom over our horizon. These are the clouds of cynicism, trivialization, and doubt relevant to our judicial system that threatens the very foundations of our nationhood.

Our legal system was conceived by wise founders who strove to ensure that neither tyrannical rulers, emotionally driven magistrates, nor whimsical or capricious petty bureaucrats could foist their wills on the rest of us. Our legal system is a glue that bonds us all together; it bridles both the executive and legislative government branches; and it strives to assure equal justice for all citizens. Our legal system is presently endangered, however, not from some evil, surreptitious, external threat, but from internal cynicism and a lack of public confidence.

Our criminal justice system is under attack from citizens, criminal justice experts, the press, and government officials. Attacks are aimed at laws, prisons and their guards, police, judges, juries, evidence analysts, and lawyers. If we believed much of what we see on TV and hear on the radio, what we read in newspapers and magazines, and what we are told by "experts," we might conclude that our criminal justice system is rotten beyond repair. Most of us, gratefully, are smarter than that and we realize much of what comes our way as truth is biased, laden with self interest, or fabricated falsehoods. But danger lurks in half truths, lies, and distortions: that danger is that even the wisest of us begin to internalize lies that are repeated often enough and when we are exposed to them in various forms from an ever increasing number of sources. This is classic propaganda. Nonsense, falsehoods, and distortions have a way of masking for truth if we are not vigilant and wise in our interpretations of what we hear and see.

Recent high publicity trials have eroded many people's confidence in our justice system; namely: the Lisle and Erik Menendez brothers case, the Lorena and John Bobbitt cases, the Rodney King and Reginald Denny cases, and the O.J. Simpson case. Each of these cases has contributed, in its own way, to public cynicism and doubt relative to our justice system.

The Rodney King and Reginald Denny cases placed into question juror sensibility; jurors were convinced by lawyers that plainly visible beatings either did not occur or that they were not as egregious as they appeared to

most people watching endless world wide televised replays. Acquittals in the King case and lesser offense convictions in the Denny case raised questions of equitable justice and racial implications in juror decisions and in judicial sentencing. Lorena Bobbitt admittedly brutalized her husband but she claimed she was temporarily insane. This case, like the John Hinckley case before it, highlighted the insanity plea. Idaho and Utah have abolished that defense. Are these two states on the right track or is insanity a reasonable defense strategy? In the John Bobbitt case, where he was tried for abusing his wife, the case was apparently decided on what is referred to as jury nullification, a jury's right to ignore all or part of the testimony and decide guilt or innocence on their own hunches or feelings. The O.J. Simpson case has raised questions of 4th amendment rights, sloppy forensic data gathering, handling, and interpretation; monumental public disclosure of evidence [real and imaginary], public posturing by the defense and the prosecution, public pollings by the media relevant to attributed guilt or innocence of defendants prior to a trial and of racial differences pertaining to the case, and questions about whether money can buy justice. Star status favoritism was also raised by the Simpson case. Who really believes that an average citizen could be a fugitive from justice, be observed fleeing police on a public highway, have a gun, and not be immediately and forcibly stopped and apprehended rather than be followed for over two hours by police, covered by national television, and be allowed to go to one's home after what the media portrayed as a hero's parade?

Juror competence, police neutrality and their treatment of citizens, the operational meaning of defendant pleas, use of videotaped courtroom evidence, and the press' role in covering and editorializing trials and pre trial activities have all been recently raised in ugly and alarming ways. These events deepened racial concerns about justice, have widened doubts about trial fairness, and have fueled cynicism about our judicial system.

Some people see the justice system more as a game of arcane rules; gamesmanship; technicalities; and unjust results rather than a search for truth and findings designed to create justice. If we hope to maintain our faith in our system, we need to effectively teach, lead, and re-inspire our people as they were invigorated by our founding fathers.

Famous judges, lawyers, and law professors regularly appear on TV extolling our system's virtues. Too often, they trivialize, minimize, or deny that troubles are brewing related to public confidence in our system. Such

repression and denial by opinion leaders only heighten the anxiety of those in doubt and exacerbate cynicism, doubts, and public anxieties.

We need to have in-depth, common language, direct, and public examination and disclosure of what our legal system is, what it is designed to accomplish, what its strengths and weaknesses are, as well as suggestions for correcting deficiencies and defects, and dispelling myths. Without prompt attention, I fear public confidence, a willingness to abide by the justice system's findings, and our political system's underpinnings will severely erode, placing our democracy in dire jeopardy.