

Criminal Lawyers: An Endangered Species by Paul B. Wice.

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Americans commonly stereotype lawyers as lone criminal defense specialists who try—and usually win—all of their cases in court. Nothing could be further from the truth: only a small fraction of criminal cases go to trial; and an even smaller proportion of lawyers handle criminal matters on a regular basis. Paul Wice conducted this study of the private criminal bar to dispel this widely held misconception. This study is also the result of his personal fascination with the legal profession; Wice spent a year in law school and has participated in several previous studies of the criminal justice system. While few of the lawyers about whom Wice writes would qualify as stock television characters, others whom he encountered might well have succeeded as actors, comedians, athletes, and—of course—successful practitioners in other areas of the law.

Wice's book presents the results of his study of private criminal lawyers, their lives, and their environment. The study took place in eight major cities: Washington, Philadelphia, Los Angeles, San Francisco, New Orleans, Miami, Houston, and Denver. His work contains eight chapters. The first chapter explores why—and how—this study was conducted. Chapter 2 describes the legal environment in each of the selected cities. Chapter 3 presents, in the author's words, a "group portrait" of the private criminal bar; the fourth chapter focuses on how these practitioners make a living, including how they obtain and handle clients. The fifth chapter describes the lawyers' working environment. Chapters 6 and 7 deal with the practitioners' pre-trial and courtroom performance, respectively. In the final chapter, Wice deals with the major dilemma facing criminal lawyers, namely that they are being put out of business as the result of competition by public defenders' offices.

Few studies have dealt with the criminal lawyer's role. The only recent scientific study was conducted by Arthur Wood in 1967, but it involved data gathered in 1955, long before the Supreme Court radically changed the criminal lawyer's role. Wice's work is, by his own admission, not so much empirical as it is anthropological and analytical. It is fortunate that the author recognized the near impossibility of conducting a scientifically valid yet readable study of the entire criminal defense practice. To begin with, the process of selecting a sample of lawyers presented formidable difficulties; for instance, how does the researcher define "criminal lawyer"? Assuming a sample is selected, other methodological problems—such as what variables to select and how to quantify them—would remain.

Even a perfectly designed and scientifically valid study would obscure a key theme of this work: that many criminal lawyers subject themselves to a demanding, poor paying, and little respected calling; and yet, many of them balk at the prospect of shifting to the more secure and lucrative specialties within the law. The hazards of a heavy criminal practice are predictable: as the result of long hours, irregular schedules, and stress, the lawyer (generally male) destroys his liver, digestive tract, nervous system, and, not unexpectedly, his domestic life. Asked why he continues his destructive routine, he will typically answer that life in a law firm or corporate office is simply "too dull."

Another, unspoken reason for remaining in the practice is ego: Wice portrays these lawyers as intense beings who prefer living all aspects of their lives to excess. Criminal

practice is, by its very nature, essentially personal: the lawyer's only assets are his reputation and his ability to perform before a broad audience of judges, jurors, clients, and fellow attorneys. Criminal lawyers, moreover, typically refuse to join firms, avoid membership in bar associations, and fail badly at organizing even for their own interests; they are also among the severest critics of their fellow defense attorneys. In short, cynicism as well as ego is a common trait of their calling. These characteristics might not necessarily equate with professional competence, but they make criminal lawyers as interesting as they themselves characterize their work.

As fascinating as the individual criminal lawyers is their working environment, the eight urban court systems (few criminal-law specialists are found outside metropolitan areas) selected by Wice for study: Chicago, which has in effect created one set of criminal courts for the poor and another for the wealthy; Miami, where kickbacks are routinely demanded for referring clients to criminal specialists; and New Orleans where the criminal courts building is inhabited by oddly uniformed, politically appointed sheriff's deputies. From his interviews, Wice describes these court systems and their lawyers by illustrating them with some of his more entertaining findings. Recitation of statistics is kept to a minimum. However, the tabular data that do appear in the work underscore the difference between the criminal bar and the rest of the profession.

As a group, the criminal lawyers contain comparatively more ethnic minorities, graduates of lesser-known schools, and children of working-class families—in short, people who are most likely to fight for their own rights as well as others'.

The weakest portion of this work is in chapters 5 through 8, which wander uncertainly among anecdotes, discussions of such criminal-procedure issues as plea-bargaining, and "recipes" for such tactics as selecting jurors and raising the insanity defense. Included among these discussions, however, is one highlight, an analysis of the two major forces contributing to the endangerment of the private criminal bar. The first of these is the Supreme Court's activity in criminal procedure: the great volume of decisions has forced criminal lawyers to devote many hours to legal research. Second and more important, the Court's decisions guaranteeing counsel to all criminal defendants has created more business for the private criminal bar but had the ironic effect of strengthening its chief competition, namely public defenders' offices. Wice states that these offices are a frequent and obvious target for criticism by private attorneys. Aside from competition for clients, the offices are criticized because ego and individual personality are subordinated and "zone coverage" of cases is substituted. In such an atmosphere, the important service of "handholding," which the private bar believes essential, become obsolete. Thus, while private attorneys rated the professional quality of public defender offices as equal to that of most private practitioners, the private lawyers nonetheless insisted that their rivals' offices were inferior.

Wice's findings and conclusions offer no real hope that the decline of the private criminal bar will reverse itself. He notes that attempts have been made in some cities to establish appointed-counsel programs (largely to prevent the creation of public defender programs), but these programs have been plagued by bureaucracy and favoritism. While the increased prosecution of white-collar crime raises the prospect that a better class of criminals again would seek out private attorneys, this too appears to be a hope, not a trend.

In Wice's analysis, the decline of the criminal bar is so advanced that these lawyers might be outnumbered by their television counterparts. However, the author never states

whether the disappearance of private counsel would—in terms of providing justice—be a real loss. On this point Wice's conclusions rise no higher than sentiments; he laments the disappearance of these colorful, individualistic curmudgeons whose company he enjoyed, but his analysis goes no farther. Rather, he contents himself by retelling the private attorneys' own views on the state of their practice. Perhaps though, the author's sentimentality is instructive: if criminal lawyers can captivate a trained researcher of the criminal justice system, then certainly other Americans can be excused for harboring their own misconceptions about criminal defense lawyers.

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