

in their own words

BY ANDRÉ BÉLANGER & BEAU JAMES BROCK

Upon entering the hallowed halls of Orleans Parish District Attorney's office, Harry Connick said to me (André), "Welcome to the greatest show on Earth!" then exhorted, "Son, promise me one thing; that you'll never send an innocent man to jail." As a prosecutor, I viewed Connick's statement as a mandate and did what I could to see justice was given especially to those either wrongly accused or arrested with illegally gathered evidence – even those whose criminal history may have been checkered with misdeeds.

Years later, Connick's comments would be fully developed into a personal philosophy that helps to explain why I effectively am able to defend those whom society has deemed "criminals." By the way, I hate that word; it presupposes that everyone arrested did something wrong and I know it is not the case. Everyone assumes anyone arrested is guilty, and this is not true. Below are the 11 principles that Beau Brock and I believe in that make it an honor to defend some of society's most feared and often most neglected members.

I. Nothing is as it first appears — There is always another side than reported by the police. We recently represented the president of an "outlaw motor cycle gang" accused of shooting a former member in a bar. If all we knew about the case was the "gang's" reputation, as documented in books and television, we would draw the conclusion that he should rot in jail. We now know the other side and realize that an injustice had occurred.

II. Prosecuting only the right person — Anyone should be able to defend an innocent man. Nobody should seek to imprison the innocent. An arrest is merely an arrest; it does not mean the person is guilty.

III. Responsibility is to charge only crimes that can be proven — It is fundamentally wrong and unethical to overbill without realistic belief in proving the case merely to intimidate, coerce or threaten those whose liberty is most jeopardized.

IV. Proportionality in sentencing is essential to justice — The authors despise federal sentencing guidelines. We can do a great service to our clients by making sure the penalty they receive is just. Good people do make poor decisions, sometimes. Mandatory incarceration for first offenders in such cases is not the answer to societal woes.

V. All of us are sinners, and we are proudly called to stand for the leper, the adulterer and the thief — The human condition demands we not merely inquire into what and where, but also ask why. The Bible refers to stories of lepers who were thought to be afflicted with their disease due to their unclean spirit, but God reached out to them nonetheless. Who are the pariahs of today's society, and will we have courage to hold out

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The practice of criminal defense: Principles of why we fight¹

our hands to them as defense lawyers? This principle also applies to people we represent that we know are guilty.

VI. When we stop to help someone on the side of the road, we don't judge them first — People aren't born evil. Instead, circumstances of youth dictate whether a young person will understand responsibility, have resources to succeed, and if hope and faith are able to burn within his heart and mind.

VII. We represent families and our service for their needs is paramount — In many ways, criminal defense requires an almost Jesuit discipline to each case as each case represents a unique soul in crisis. One must adopt the line from "The Verdict" when assisting in every family's situation: "There are no other cases. This is the case!"²

VIII. The more guilty a man appears, the more he needs me — This is borrowed from the renowned "attorney for the damned," Clarence Darrow. Your client will be viewed as guilty when accused, even before the police have removed the evidence bags from his residence. It is at times like these he needs an attorney unafraid of the hazards the criminal process entails, but also one who will maintain clarity of judgment in determining strategy and tactics in mounting a successful defense.

IX. Be prepared — Jury trials are not won by sizzle, superstition or sensationalism. They are won by thorough preparation and steadfast organization. Even more so, clients are best served in the criminal process by the earliest possible intervention on their behalf by counsel with law enforcement agents and prosecutors. This work is performed by systematic and detailed research into the law of every case, taking the time to investigate all sides of issues and the courage to make a stand before a jury, when necessary.

X. The cause is a professional one, not a personal one — Candor to the court, the prosecutor and your client is the inherent requisite to professionalism in the practice of criminal defense. Ability to separate passion for the case or cause from the personalities of prosecutors is essential to maintain continuing success in this field.

XI. Our republic is defined by ordered liberty, and only criminal defense attorneys defend the rights of those whose life and liberty are most threatened by the power of the government — Being a criminal defense lawyer is a special calling. Who else fights against warrantless searches and confronts accusers? Who else jealously guards your right against self-incrimination, the right to counsel and the right to a speedy and impartial trial? No one other than the criminal defense lawyer. ■

¹ Frank Capra was the filmmaker responsible for the "Why We Fight" series of wartime films shown to U.S. soldiers during World War II. Our article's title is taken in part from this patriotic series.

² The Verdict (1982).