From Della Street to Donna Paulson: Managing Legal Client Expectations In A Pop Culture World.

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Where Did It All Go Wrong?

In 1955 half of all homes in the United States had a television. On September 21, 1957, Columbia Broadcasting System (CBS) aired the very first legal drama. Based on the novels of Erle Stanley Gardner, we were introduced to Della Street, the confidential secretary, and Paul Drake, the investigator, both employed by Perry Mason. And it has been all downhill for the legal profession since. I’m being dramatic, but only a little. While most television viewers will readily admit that shows featuring doctors and first responders are sensationalized, if not outright fabricated, legal and law enforcement shows do not seem to be afforded the same leeway. It is known as the ‘CSI Effect.’ There is no agreed-upon definition of the CSI Effect but loosely stated it “refers to television shows like CSI: Crime Scene Investigation, Law & Order, and 48 Hours Mystery, and the impact they have on jurors. It is said that jurors who watch these types of shows may place a heavy emphasis on forensic sciences in a case.”¹

It’s Getting Better, Though. Right?

The last year I could find solid data for was 2006, during which 30 million people watched CSI on one night, 70 million people watched at least one of the three airing CSI episodes that week, and 40 million people watched one of two other available forensic dramas, Without A Trace and Cold Case. In that one week, five of the top ten television shows were centered on criminal cases and scientific evidence collection and processing. 100 million viewers—and that was just on network television—in 2006! Sit with that for a minute. Nearly twenty years later we have all manner of streaming services in addition to cable and network television providing similar content. For purposes of this writing, we are going to assume podcasts have the same/

For context:

- According to the Pew Research Center, a full third of U.S. adults get their news from Facebook and twenty-five[sic] percent from YouTube.²
- The share of Americans who say they often get news from a podcast is quite small—at just 7%—compared with about twice as many adults (16%) who say they sometimes get news from podcasts.³
- Among U.S. podcast listeners...29% say that staying up-to-date about current events is a major reason they listen to podcasts. Two-thirds of podcast listeners say they have heard news discussed on the podcasts they listen to—amounting to a third of all U.S. adults. And among those who hear news on podcasts, the vast majority say they expect the news they hear there to be mostly accurate. (Emphasis added)⁴
An interesting little side note—the CSI Effect also reaches into perceptions of the profession at large. For instance, “Viewers of crime shows also misjudged the number of law enforcement officers and attorneys in the total work force. Lawyers and police officers each make up less than 1 percent of the work force, but those surveyed estimated it at more than 16 percent and 18 percent, respectively.” ⁵ Even Bumble and Tinder state that attorney is among the topmost desired occupations for a potential dating partner.⁶ On the downside "We found that people who watch these shows regularly are more likely to overestimate the frequency of serious crimes, misperceive important facts about crime and misjudge the number of workers in the judicial system." ⁷

What About The Peers in the Jury?

While it may seem like this isn’t all that important—after all the legal system is designed to withstand such bias—we see that it may not be able to. “…[W]e believe it is crucial for judges and lawyers to understand juror expectations for forensic evidence. Even though our study did not reveal a so-called ‘CSI effect’ at play in courtrooms, my fellow researchers and I believe that a broader ‘tech effect’ exists that influences juror expectations and demands… Many laypeople know—or think they know—more about science and technology from what they have learned through the media than from what they learned in school. It is those people who sit on juries. Every week, the ever-evolving scientific and information age comes marching through the courtroom door in the psyche of almost every juror who takes a seat in the box.” (Emphasis added). ⁸

The study referenced above was conducted in Ann Arbor, Michigan, through June, July, and August 2006. 1,027 randomly summoned jurors completed a written questionnaire prior to being seated on juries. The potential jurors were assured that their responses were anonymous and unrelated to their possible selection as a juror. The survey indicated that 46% expected to see some kind of scientific evidence in every criminal case; 22% expected to see DNA evidence in every criminal case; 36% expected to see fingerprint evidence in every criminal case; and 32% expected to see ballistic or other firearms laboratory evidence in every criminal case. While this might seem like the CSI Effect was in full effect there is a twist:

The findings also suggested that the jurors’ expectations were not just blanket expectations for scientific evidence. Rather, expectations for particular types of scientific evidence seemed to be rational based on the type of case. For example, a higher percentage of respondents expected to see DNA evidence in the more serious violent offenses, … than in other types of crimes. For all categories of evidence—both scientific and nonscientific—CSI viewers (. . .) generally had higher expectations than non-CSI viewers (. . .). But it is possible that the CSI viewers may have been better informed jurors than the non-CSI viewers. The CSI viewers had higher expectations about scientific evidence that was more likely to be relevant to a particular crime than did the non-CSI viewers. The CSI viewers also had lower expectations about evidence that was less likely to be relevant to a particular crime than did the non-CSI viewers… Interestingly, in most of the scenarios presented, potential jurors’ increased expectations of scientific evidence did not translate into a demand for this type of evidence as a prerequisite for finding someone guilty. Based on our findings, jurors were more likely to find a defendant guilty than not guilty even without scientific evidence if the victim or other witnesses testified… On the other hand, if the prosecutor relied on circumstantial evidence, the prospective jurors said they would demand some kind of scientific evidence before they would return a guilty verdict.” (Emphasis added).⁹

So, Now What?

Understanding that the CSI Effect exists and how it is likely to color the perception of society at large regarding the legal field, we must take steps to set participant expectations, for clients in particular. What are some areas where we might see it pop up? Trials certainly top the list, followed by access to the attorney and staff, and, finally, legal practice methodology and tactics (cleverly disguised as ethics). But the whole process starts with the first meeting with the client. The responsibility to set expectations for clients begins on their first visit to your office. “When you decide to offer representation to a client, you are responsible for tactfully setting them straight regarding any unworkable expectations that they might have, and clearly explaining exactly what you can realistically be expected to do for them. While doing so, take the time to patiently explain the probable outcomes and time frames related to their case. If necessary, identify
problems regarding the course of action that they believe should be followed and emphasize the advantages of following the course you recommend. Once your client’s expectations are reasonable and you have a good understanding of them, it will be much easier for you to meet (and maybe even exceed) them.”

First and foremost in managing client expectations is gaining their trust. “Since a major source of anxiety is fear of the unknown and many clients have little or no experience with the legal system, you can manage their expectations and enhance your mutual relationship by patiently guiding them through the process, providing genuine reassurance and plenty of one-on-one attention to ensure that they thoroughly understand the issues involved in their case. Because clients who trust you are typically easier to work with than those who don’t, it is important to nurture their trust and peace of mind, particularly those with elevated stress levels.”

The best way to build trust is to be proactive. Handling client expectations is an exercise in anticipating your client’s needs, setting expectations around those needs, and communicating regularly with the client regarding those needs. “This proactive approach can not only improve client satisfaction, but it can also help to prevent delays and ensure the smooth progression of the legal process.” Being regular and timely in communicating with them will result in increased trust and confidence in your skills and in the firm’s professionalism and effectiveness. Along with this, being responsive (i.e., returning phone calls and emails in a timely fashion) and following up with clients after communications go a long way toward reinforcing client confidence.

Trial Tropes and Trappings

I would posit that the number one topic for legal professionals to manage client expectations is around trials. Trials almost never happen like they do on television. A group of NALS members highlighted items like: “trials are not sexy, they are boring,” “most cases are argued on existing precedent not on monologuing for the judge,” “in my jurisdiction, objections are not argued in front of the jury, when the attorneys object the jury leaves the room before the objection is argued,” “our judges don’t even have gavels, let alone bang them,” “I practice administrative law and we never have long, prosaic oral closing arguments, they are almost always written.”

Add to these classics such as ‘we’ll just sue’ and its sibling ‘we’ll win on appeal,’ we can ‘bury them in paper,’ and the ever-popular surprise witness or blindside exhibit conjured up at trial and the opportunities to set expectations abound. It is imperative that your client be aware that what they see on television is not how it will go—guaranteed. “Remove their blindfold and step them through the legal process. A major source of anxiety is simply the unknown. Provide genuine reassurance and take the time to make sure they thoroughly understand the legal issues and what is involved . . . If necessary, identify risks in the client’s intended course of action and highlight the advantages of taking an alternative course. This may include providing frank and candid advice as to the legal realities of their situation and whether or not the anticipated outcomes can be achieved.”

This myth busting effort needs to begin sooner rather than later; addressing not only the legal process and likelihood of a day in court, as stated above, but further
expectation management needs to be done regarding the **outcome** of the trial as well. “Your client may expect not only to win a difficult case but to reap a financial windfall from it… To keep your client realistic, be honest from the start about all possible outcomes, including the worst-case scenarios. Make sure your client understands what is within your control and how new information can change the likely outcome of their case.”

And finally, don’t be afraid to be blunt with clients. As stated by George Clooney in the film Michael Clayton, “I’m not a miracle worker, I’m a janitor. So the math on this is simple: The smaller the mess, the easier it is for me to clean up.” Involving clients in the decisions surrounding their case and making sure they have all the information to make solid decisions is a good way to keep their expectations in check. “Make sure your client understands throughout what factors are within and outside your control. When your client feels they have agency in making the decisions regarding their case, they’re more likely to stay realistic about the outcome of the case.”

**'Tireless' Advocates**

“Well, it looks like another all-nighter for me,” said no legal professional ever. While we all know that isn’t 100% true, it is more likely than not that the only folks pulling all-nighters are law students and ambitious first-year associates. Attorneys and support staff have lives outside of work and while an all-night rush to prepare and file exhibits or make last minute changes to a brief is not unheard of, most firms use calendaring and workflow management to avoid it. “TV and film audiences may be more interested in the turmoil associated with a legal drama’s most “likeable” defendant, but in the real world, even extremely busy criminal defense attorneys have lives outside of the law. Many have spouses, children, houses, and family drama just like the rest of us. TV shows rarely even give viewers a glimpse into a defense lawyer’s life when they leave the office.”

It is important for clients to know that they must share your time with other clients. You may be their only attorney, but they are not your only client. “Limiting after-hours contact or saying “no” to unrealistic deadlines may not make the client happy. Senior partners or business owners may not fully appreciate the need for discrete breaks from work. With some clients and managers, you may have to be very cautious in approaching this topic. But if you want to protect your time boundaries, you have to address it. Good clients should appreciate candor.”

Real attorneys, especially criminal law attorneys, carry hefty caseloads and must manage their time among those many clients. “Legal dramas would naturally be too confusing if they portrayed this aspect of being a real-life lawyer. Criminal lawyers, at least those who are even moderately successful, carry a large case load that pulls them in many different directions at once. Television attorneys seem to be able to focus all of their time, energy and passion into one case per week.”

**Win At All (Ethical) Costs**

Spoiler alert! Most attorneys are honest most of the time. “While networks and movie producers want you to believe that all lawyers lie all of the time, the truth is that real life attorneys are, in general, good people who have a passion for the criminal justice system. Their skill for being able to open people’s minds centers around presenting the facts so as to evoke reasonable doubt—*not lying*.”

As we all know, you cannot promise a client a certain outcome and you cannot promise to do anything that violates the rules of ethics. In fact, there is only one thing you can promise clients—zealous representation. “That’s a significant reason why I try to be so up front… I want to set the expectation that there are no expectations. Actually, to be fair, I give them one expectation and one promise: My best effort. But that’s all—no more and no less.”

It is also your role as a legal professional to ensure that your client doesn’t torpedo their own case. Again, at the risk of sounding like a broken record, communication is the key. “Legal professionals are often quite rule-driven and have clear codes of conduct that they believe everyone, including their own clients, should follow. But most clients experience a certain degree of anxiety as their case progresses, and as a result, their behavior sometimes falls outside their attorney's expectations. Instead of getting angry at difficult clients, try to accept the fact that practicing law is a service business and you’ll have to take your clients the way they are. The key is to remember that their fear often has little or nothing to do with the quality of your work, and instead is often rooted in their lack of...
understanding regarding the legal system.”

So, Where Do We Go From Here?:

While we can’t ever imagine that legal dramas will be truthful and complete characterizations of the practice of law, let’s be real, no one would watch if they were (even, maybe especially, us). We do see that some are working for a less glamorous depiction; often mentioned by name are: “L.A. Law,” “The Practice,” “Law & Order,” and “Suits.” “Some of the elements that add authenticity to these programs are: judges reining in “loose cannon” attorneys and demanding strict adherence to codes of ethics and propriety; the legal profession being depicted as demanding work, not glamorous or exciting; legal firms being shown not necessarily as big and successful, but as businesses that can struggle as any other business would; legal jargon being used correctly; and lawyers interacting in a realistic manner.” However, as advocates and counselors, attorneys and their staff must rise to the Sisyphean task of preparing clients, juries, witnesses—and, in some cases, even themselves—for the drudging, glacially-paced reality of the legal system. So, this Court Observance Week let’s all set out, NALS pals, to shatter expectations in pursuit of outcomes.

Some additional sources that may be of interest:


- Shine, J., *What Perry Mason Taught Americans About The Criminal Justice System: How One Of The First Courtroom Dramas Has Shaped What We Watch And How We See The Law*, Smithsonian Magazine, June 19, 2020. A deep dive on how the titular attorney set the standard for television legal dramas and may have run afoul of how the system really works.


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22 Permian Basin Blog Post, How Accurate Are TV Legal Dramas, University of Texas, accessed June 20,


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