

# THE SYSTEM WORKS

*by Marsha V. Kazarosian*

It is human nature to feel that when an inexplicable tragedy occurs, someone must be blamed. And if no one is blamed, there is no justice. But it is impossible to decide a matter based upon emotion. If that were the case, justice would never be served.

In a day and age where the impartiality of the judiciary, the importance of the jury system, and the necessity of lawyers is hotly debated, the tragedy of the Station Nightclub fire has underscored these very issues and the basis upon which our system of justice was founded.

No one can dispute the indescribable tragedy of that night. No one can ignore the tremendous collective grief and frustration of the victims' loved ones. And certainly, very few would argue the collective series of events that ultimately led to the culpability of the Derderian brothers who owned the club, and Daniel Beichele, the road manager for the band. But what is justice, and how can justice be ensured for everyone for all time?

Understanding the reality of the impact of intense emotion, prejudice, favoritism, and influence peddling on an individual's access to justice, the founding fathers crafted a Constitution that ensured that justice was accessible to all, regardless of the many variables which could cause it to be blurred. They constructed a system, for those defendants who chose to avail themselves of it, that provides for a jury of neutral finders of fact to ensure that emotion and personal interest had no impact upon the final determination. They provided for an impartial judiciary to ensure that judgments would be meted out based upon the facts found by the jury, and those facts alone, unclouded by special interest or personal aggrandizement. And the Constitution was ultimately crafted to include the right to counsel, without which many people would have no access to justice, and would have no advocate in a system of advocacy.

Judges, lawyers and juries do not act independently. One cannot succeed without the other. They provide a check and balance that is as free of personal bias, prejudice, and greed as humanly possible. Without all three, justice would not be blind, it would be influenced by public opinion, fear of retribution, and motivated by personal advancement. And those less fortunate would have no chance at all.

But the outcry in this case was partly due to the fact that the Derderians plead no contest, and as such, there was no trial. They ultimately chose not to take advantage of the jury system, and of all of the rights afforded to them in the Constitution. But again, the system worked. The only person in that courtroom who could have possibly made an impartial and reasoned decision, unfettered by emotion, personal advancement, or special interest, was Judge Darigan, the sentencing judge.

In his considered opinion and experience, based upon all of the evidence before him, after hearing the lawyers who advocated for both the State and the Defendants, and after considering the intense and unparalleled emotion of the loved ones, he did what the Constitution mandated him to do. Yet

there was anger and disappointment from all sides, and our system of justice was publicly pilloried.

Some people feel that this tragedy was the culmination of a series of terrible, unconnected mistakes that does not rise to the level of criminal responsibility. Some people feel strongly that these "mistakes" were avoidable and that safety was recklessly disregarded in order to increase revenue, and that this, by definition, is criminal.

But however one assesses this tragedy, the fact remains that if judges start making decisions based upon public opinion and a concern for their position, our system has failed.

As early as Solomon, no judge has ever been able to satisfy everyone. The best that can be hoped for in a system that strives to be fair to everyone, is that the lawyers are given the opportunity to lawyer, the fact finders have the ability to find the facts, and the judges have the freedom to make decisions without outside influence or fear of reprisal.

Judge Darigan did a difficult job with courage, untainted by public opinion or outcry. And in that respect, the system worked. Regardless of whether or not you agree with the outcome, the decision was meted out by an impartial judge, unaffected by outside influences, and based upon what was learned in the four corners of the courtroom, a right that we still have the luxury and privilege to enjoy.