

ROBERT STAHL

TAKE 5 | After nearly seven years as a police officer, Robert Stahl left law enforcement for the courtroom. He graduated magna cum laude from Seton Hall University School of Law, served as an assistant U.S. attorney in New Jersey and, in 1997, opened a criminal defense practice, based in Westfield. Among Stahl's recent cases was the defense of Dias Kadyrbayev, a student from Kazakhstan, now serving a six-year sentence for his role in the aftermath of the Boston Marathon bombing.



1 | How has your background as a police officer helped you as an attorney?

I think doing investigations both as a detective and then having supervised investigations in major prosecutions as a prosecutor gave me a great insight into how cases are built, how they're brought about, how witnesses and targets are treated. That assists me greatly in defending clients now. I know what to look for in a case and what the weaknesses are, and whether things are as they appear. Particularly in the federal system, where you don't get a lot of discovery in the case until close to trial. Since the national average is that 95 percent of cases plead guilty prior to trial, you have to know what type of evidence there could be without actually seeing it.

2 | Criminal defense attorneys seem to be the superstars of the legal business — part showman, part storyteller. Is that accurate?

There are no capes. But, yes, if you're going to be a successful trial attorney, you're going to have to have presence. You can tell that when you meet people, whether they're the outgoing, storytelling type who can grasp the attention of the jury. The reason that is important is because most people believe what they read in the paper and an indictment. So, you start out being brought to court with this piece of paper and you're telling the jury that it is not evidence, that it is only the charging document, but here we are in court, so the odds are long stacked against

the client. Your family, friends and co-workers see this huge press conference and release of information the government has and everyone thinks immediately that you're guilty. So you have to overcome that. I was up in Boston in federal court representing one of the two students from Kazakhstan who were charged with obstruction of justice after the Boston Marathon bombing. You talk about walking into an atmosphere where it was the largest case probably in the history of the Boston FBI, (and) that city and a terrible situation. You have to represent someone whose entire family is in another country and they are relying on you to go basically into the hornet's nest, put on a defense and protect their rights.

3 | Our legal system proclaims innocence until proof of guilt. However, perception often does not work that way. To what degree do criminal defense attorneys have to combat perception?

It is a constant battle. We are in a generation of instantaneous news, 24 hours a day, seven days a week. Years before, an incident may have been a small article in the newspaper and people didn't see it. You were trying to select a jury of people who didn't read the newspaper and didn't pay attention to that article. Now, with the constant news cycle and the information released constantly by government agencies — you'll see charts showing money flow from one country to another, or tables stacked with drugs and guns and ammunition — and during these presentations, the prosecutor will say that

these are just charges, that it is alleged, but that word "alleged" gets lost in the flow of exhibits and the presentation. That is what people remember — that someone is facing up to 100 years in prison. You have a lot of people thinking if someone is charged, they must be guilty of something. Maybe it's not everything the government says, but it's hard to believe it would go after innocent people.

4 | It seems there is an art to cross-examining a witness.

You have to approach each one differently, because the jury also looks at your attitude and demeanor. You don't want the jury to think you're unfairly picking on someone who is perhaps not as sophisticated or as eloquent. If you have someone who is basically a con-person and is slick on the stand, jurors allow and want the attorney to go after him more and be aggressive. With someone who is nervous or mistaken or seems like a softer individual, obviously, the jury doesn't want to see the attorney going after them too hard. For that particular witness, you will perhaps just point out that they have not been accurate or made mistakes, but that they are not trying to deceive the jury.

5 | It sounds, then, like you are part psychologist in the courtroom.

I think that is a very important skill — to read someone and be able to size them up, often the first time you are ever seeing them, because witnesses don't have to agree to be interviewed by the defense beforehand. You have to have common sense, and so, part of it is street smarts. You see how a person is answering questions in the courtroom, who they are looking to, how they handle themselves, what you think their weakness is and (how) to bring that out. Often, people have an agenda as a witness, but it's hard to demonstrate that to a jury. And, of course, they're being called as a government witness and being sworn to the truth under penalties of perjury. So all those trappings come with this gloss of someone who is honestly here to tell what has happened, as opposed to someone who may have their own agenda.

— *Michael Fensom*

Next month: *Helen Fisher, Rutgers professor and anthropologist*