

Media & Crime

TERRY CARTER

An Interview



Terry Carter, a court reporter and analyst of a prestigious professional magazine issued by the American Bar Association (ABA), has attended hundreds of court trials throughout the U.S.A., whereon he has reported for the U.S. media, including the Washington Post.

Why did the American Bar Association decide to publish an article about the reform of the judicial system in Serbia in its journal?

First, let me explain why I submitted a proposal to my editors for a story about reform of the judicial system in Serbia. I got the idea several months ago when I met Bruno Vekaric, spokesperson for the war crimes prosecutor's office, and Sonja Prostran, who had been spokesperson for the war crimes chamber but had recently been appointed a municipal judge in Belgrade. I am on the faculty of the Donald W. Reynolds National Center for the Courts and Media, part of the National Judicial College in Reno, Nevada, where Bruno and Sonja came for training in a class of court public information officers from around the U.S. I must say that Sonja and Bruno were the highlight of the week for the instructors and students. Some of the problems they spoke of in dealing with high-profile cases were so much more interesting and urgent than those to which we are accustomed. In listening to Sonja and Bruno in the classroom and speaking with them personally at other times, I became very interested in developments in Serbia. I knew the ABA Journal was looking into the possibility of devoting a single issue of the magazine to the increasingly serious problems for judicial independence – and the judicial system, including prosecutors – in the U.S. I suggested a story about the development of independence for the judicial system in a transitional democracy, Serbia, to add flavor and context to that issue of the magazine. My suggestion was approved by the magazine's editors immediately.

During your stay in Belgrade you made a lot of interviews with the main people in prosecution offices, courts, professional associations, international and non-governmental organizations. What is your main impression? Could courts in Serbia proceed such risk proceedings as organized crime and war crime?

My impression is that the so-called "brain drain" I had heard about, meaning huge numbers of very intelligent and talented people leaving Serbia during the turmoil of the 1990s, obviously was not so complete as one might believe from news reports. I was impressed with the knowledge, skill, focus and determination of nearly everyone with whom I spoke. I also was impressed with what I would call the passionate candor with which they spoke. For example, Mr. Vladimir Vuckovic explained to me in detail, naming names, about several instances in which members of government pressured him and his office in certain matters and how he and others resisted. I heard the same sort of stories from Judge Omer Hadziomerovic, in his capacity as spokesperson for the judges association, and from Aleksandar Milosavljevic, in his similar capacity with the prosecutors association. By the way, I believe these professional associations have the potential to help bring significant reforms, which will be a significant point in the article I am writing. My impression is that Serbia's judiciary and prosecutors are quite ready to handle war crime and organized crime cases. They do need more help at the most basic level – cooperation and effort from the police. But apparently that is not always the fault of the police investigators themselves. It seems the police investigators themselves don't get the support they need. So, the question still concerns the political will in other parts of the government. It seems obvious to me that the ability and the will are in full force with the judges and prosecutors in the war crimes and organized crimes departments. I believe that in recent months a number of events have helped push these efforts in a positive direction: the pressure brought by the U.S. through withholding significant funding, and by the European Union in what it requires for Serbia to join the EU, and the discovery and release of a video showing the war crime executions of six Muslim men and boys from Srebrenica in 1995. Also, the convictions obtained so far probably have been helpful as far as public perception is concerned. When the public sees that Red Berets have been convicted of crimes, and the public learns of the evidence and proof, that surely must change some minds in the public as well as bring doubt to those still calling the Red Berets "heroes."

But it remains to be seen whether the political will can continue to grow. It seems there is constantly a balancing act. For instance, the recent decision not to reappoint Jovan Prijic as special prosecutor for organized crime seems a good example of this. He was replaced by a man with a good reputation who probably will fit well in the department, and Prijic remains in the office as a deputy. It looks like some

politicians did this so they could truthfully tell one group that they'd made the change, and could truthfully tell another group that nothing had changed. This may prove to be a step forward. Such is the difficulty with a fractured parliament and so many changes in governments and regimes while many of the same people remain. It seems to me like a Picasso cubist painting with odd angles and proportions distorting reality but at the same time revealing a clear reality underneath: Some people are moving forward with authenticity, which is the feeling I get about the war crimes and organized crime judges and prosecutors, and some others elsewhere in government are trying to move backward while pretending to move forward.

You had a, let's say, misunderstanding with the Serbian police in front of the American Embassy. Tell us something about that, please.

I would take the 5th Amendment on this one, but apparently that does not apply in Serbia. Simply put, I was an illegal alien. That is a hot topic in the U.S., and mine is a good story for dinner parties with friends. My detention, or arrest as I would call it, stemmed from my failure to register with the police as a foreigner entering the country. I now know that you have one day after entering Serbia to do so. Hotels usually take care of this for guests, but I was on a 10-day stay and rented a flat. My landlord failed to register me. Here is how my criminal act was exposed. I left the U.S. Embassy after a meeting with Sam Nazzaro and walked across the street to get a taxi to the special court for a meeting with Aleksandar Milosavljevic, deputy prosecutor for organized crime and head of the prosecutors association. As I waited, I took my camera from my bag and snapped a photograph of the embassy across the street. I was, after all, a tourist enjoying my trip to Belgrade as well as a journalist working on a story. I did not know there was a sign across the street in front of the embassy forbidding photos. The embassy guards called me back over to them and had me delete the photos. That was no problem. But they also checked my passport and Belgrade police learned that I had not registered. Ultimately this all took nearly four hours. A police car with four police officers took me from the embassy to a police station and I was sent to a room below ground level to wait. It was a room for processing people before lockup. I have explained over and over to friends and family that Belgrade is safer than New York, Washington, D.C., London, Paris etc. Belgrade is ready for the return of tourists. But the government would do well to abolish this law requiring foreigners to register.

Which are the positive steps toward the democratization in Serbia that you have noticed, and which are the negative ones, getting the situation worse?

Probably the most positive step I have seen is the recognition by some in the government that the economic situation is very important to political decisions. Demagogic appeals to nationalistic feelings and hatreds, as Milosevic's loyal followers like to do, is wearing thin. I am impressed at how the G17 Plus party has begun showing some power and influence in the past year by telling the dominant parties in the government that if they did not help bring about the so-called "voluntary" surrenders of some war criminals that G17 Plus would pull out of the government coalition and thus probably bring down the government. It has worked somewhat. More recently the G17 Plus made a similar point concerning the dropped charges against Marko Milosevic. I think there was a great loss with the assassination of Prime Minister Djindjic, but perhaps the drive for reform can be picked up without the presence of a single, bold leader. I see strong people carrying Serbia forward, such as the judges and prosecutors in the special court. I believe there is a good chance for political will elsewhere in the government to be bolstered further by the economic realists such as those in G17 Plus. It is difficult for an outside observer who has not paid close attention to the Balkans in many years to understand how it is possible that Serbia can be behind Bulgaria, Romania and some other countries in joining the EU. These special chambers in the court and the economic realists in Parliament and elsewhere make it impossible for hollow words from other parts of government to continue having success with the international community. I also am impressed with the efforts of NGOs and the news media, such as the work of Natasa Kandic and Veran Matic's B92 and believe they add a lot of strength to the mix.

How do you see "the Special court" in Serbia, its technical, personal, legal framework?

I have been to many courthouses in the U.S. and have never seen anything like the special court as far as the physical facility and its technology are concerned. The people, meaning the staff and the higher ranking people with whom I met, were all very open and engaging. As for the legal framework, I believe the special court will lead the way in Serbia in several ways. For instance, the complete trial records, including written transcripts and videotapes, is very important and probably will be used in the regular courts not too far in the future. And I believe there will be some change or movement in Serbia to the "common law" system used by the U.S., the U.K. and others, in which judicial decisions are a matter of detailed record and courts in subsequent cases rely on them for interpreting the laws. Already there is some push in Serbia for the use of certain aspects of this system, particularly the way U.S. prosecutors and defense lawyers are advocates and directly engaged in asking questions of witnesses, and cross

examining the witnesses called by the other side. I also believe the Serbian system will someday recognize the need for more powerful prosecutors without the duplication of effort in a system with investigative judges. Too many cooks spoil the broth. Admittedly, I am steeped in the American/British system so that seems natural to me. But I see advantages for thoroughness and independence when the prosecutor investigates and brings a case and then the judge looks at what the prosecution and defense present and makes a decision.

Is there in the Serbian judicial system anything you could recommend to American judges, police or prosecutors?

First, I would like American judges, police and prosecutors to see and understand the circumstances under which their counterparts in Serbia must work. America has its own problems, including many very serious ones, but one cannot help but see how much more pressing and urgent and serious the problems are for those in Serbia. (This is part of the reason why the Americans had so much interest in and admiration for Bruno Vekaric and Sonja Prostran when they visited Reno, Nevada.) American judges and prosecutors at the state level in the U.S., which means they usually must run in elections to get the public vote, face increasingly serious threats from special interest groups with millions of dollars to run television advertisements, as well as on radio and in newspapers, against them. Federal judges, who have lifetime appointments, are being attacked by the executive and legislative branches in efforts to curry favor with certain special interest groups, especially conservative religious groups. I believe if American judges and prosecutors looked at the situation in Serbia, they would feel some relief – in the sense that misery loves company. I would ask American judges in the states, most of whom must be elected by popular vote, to look at the life tenure of Serbian judges, which the Americans would envy, but also at the lack of a system of judicial canons or ethics and judicial discipline imposed by the judiciary itself. I believe the Americans would then be more thoughtful about their own situations. Specifically concerning the special court: I believe American judges would be very happy to have live video recordings of all court proceedings in their courthouse as a matter of court record. Television in the courtrooms is now widespread in the states but still is hardly used in federal courts. The tone for that is set at the top: the U.S. Supreme Court chief justice and his predecessor have been very negative toward televised proceedings.

Could you tell us something about your work in the States regarding the most interesting proceedings you wrote about?

Probably most interesting to me personally was in 1992 when U.S. Supreme Court Associate Justice Anthony Kennedy invited me into his chambers before and after the hearing on the last day of that year's court session. I was writing for California Lawyer Magazine and that is his home state. Kennedy had not previously given an interview to the news media. I wrote him a letter asking for an interview and he agreed. What he said to me that day continues to be re-played in the media whenever there is analysis of the Supreme Court and the judicial tendencies of the justices. That day the court was releasing a decision in a case concerning the right to abortion and Kennedy, a conservative and a Catholic, reversed his own personal feelings and previous judicial writings. He came out in support of striking down a number of restrictions on women trying to get abortions and he was the swing vote on the court (the vote was 5 justices against 4 justices) and he wrote the part of the decision for the majority. While we were in his chambers before the court session, for more than an hour, he looked out the window at hundreds of protesters arguing either side of the issue and said something to me using literary and historical allusions: "Sometimes you don't know if you're Caesar crossing the Rubicon, or Queeg cutting his own tow line." That experience was so rare that I have not heard of another journalist being present for such a moment. It was a very interesting day for me, as well as for Justice Kennedy.