



Lawyer Al Lindsay works from his office in Butler.



Lindsay: No aspect of a jury trial can be overlooked

Making His Case

If people ponder the job of an attorney, they may think of a TV lawyer dramatically pleading a case in a packed courtroom.

However, the reality is the majority of lawyers establish their careers outside the courtroom, practicing in many areas besides criminal and civil law.

Still, the spotlight seems to shine brightest on those who excel at prosecuting and defending in criminal court.

To understand the world of a trial lawyer, Business Matters spoke to **Al Lindsay**, one of Butler County's most established and accomplished criminal attorneys.

Lindsay, a South Buffalo Township native, graduated from the University of Pittsburgh School of Law in 1971 and became an assistant district attorney in the county in 1972.

In that position, he prosecuted

hundreds of crimes, and his most significant work came in 1974 when he was appointed to supervise a special grand jury investigation of the state Department of Transportation that led to numerous indictments and convictions.

In 1975, Lindsay was appointed an assistant U.S. Attorney for the Western District of Pennsylvania, and he continued prosecuting high-profile public corruption cases.

In 1980, he went into private practice, starting the Lindsay Law Firm in Butler, where he has worked on a number of prominent criminal defense and civil litigation cases.

And since the early 1990s, he has shared his knowledge and experience with others as an educator, including as an adjunct professor for Pitt's law school.

Here's what Lindsay had to say about his profession.

What attracted you to law and, specifically, to the courtroom?

To say that I was originally attracted to law would probably not be true.

I'm a third-generation lawyer. My father and grandfather were lawyers. The last thing I wanted to be when I got out of college was a lawyer. I wanted to teach history and coach wrestling. But in my last col-

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lege wrestling match, I severely injured my knee.

I was to go into the service. I had an ROTC commission, and the Army said they wouldn't take me with this bad knee unless in two years I could pass a physical.

So my father said, "Well, what are you going to do for the next two years?"

And I said, "I don't know."

He said, "Why don't you go to law school?"

And I said, "I don't think I want to be a lawyer."

And, as he put it artfully, "What the hell else are you going to do for two years?"

So I went to law school, and I liked it. I particularly liked criminal law and evidence. I had a wonderful evidence professor. Evidence is the process of really trying cases. My three favorite courses were criminal law, evidence and trial advocacy, which is the nuts and bolts of actually trying cases.

So I determined that I wanted to try cases, and I had the good fortune of working for a law firm in Tucson, Ariz., between my second and third years. The idea of trying cases seemed so exciting compared to other forms of law.

(After law school), I got a job in Butler clerking for the two judges ... and then I got the job as an assistant district attorney, which was the most wonderful job in the world because I had the opportunity to try cases.

I was in the district attorney's office for three years. I think I tried about 60 jury trials, probably 400 juvenile trials, and I was able to run police seminars on search and seizure. I was able to be the supervising attorney on the grand jury investigation involving PennDOT. It was just a wonderful experience.

I always laugh — the question is: How did I get this wonderful job? Was it because of my political drag? Was it because of my great grades in law school? The answer is neither. There were no other applicants for the job.

I tried a lot of cases. I felt I had some success with it, and I really enjoyed it. It's very, very exciting.

If you want to know why I like trying cases, here it is: It's said that we only use 10 percent of our brain power. When you're trying a jury trial, your mind can work so much faster — blindingly fast — because of what you have to consider and the decisions you have to make. And you also have

the luxury of only dealing with one case.

If you're doing a cross examination, you're asking a question, and you're getting an answer. Now, while the witness is speaking, here is what's going on in your brain: First of all, you're listening very carefully to the words that he is speaking. You're listening to the tone, the hesitation, anything in the witness' voice that would indicate what's going on. You're also taking that answer that he's giving, as he's giving it, and you're categorizing it in your mind with every other answer he's given. Does it comport with every other answer that he's given on the subject, either in police reports or grand jury testimony or depositions? And you're comparing it to see whether he's telling the same story.

Also, while that's going on, you're deciding whether or not you want to contradict it, whether you want to use it. Should I leave that answer as it is, or should I ask a follow-up question? Because often, you burn yourself when you're asking a follow-up question.

And you're also thinking about how that answer figures into what your general trial strategy is and the argument you're going to make in your closing argument based on that answer.

You're also ... formulating the next question in your mind, and not only are you formulating the question, but you're formulating the precise words you will use, the tone of voice you will have and where you will ask it in the courtroom so that the next answer can have the maximum impact.

All of these decisions are being made in a brief span of time. That's exciting. It's fun.

I like trying jury trials, which is really getting very specialized. Very few people do that anymore.

I like the trial strategy. Every part of a trial is important, from the look on your face when you're introduced to the jury to the look on your face when the jury returns. Every single moment is very, very important because you have 12 people, and you have to have all 12 all the time.

It's an interesting discipline, and I think a lot of lawyers — and I think public speakers generally — don't get that.

When you bore people, I think it's rude.

Are there natural abilities someone might have that play into being successful in the courtroom?

Sure. Certain people have the ability to speak well. Certain people can be more dramatic.

However, I'm of the position that so much of that can be learned. I think that we lawyers and public speakers don't work enough on public speaking, don't work enough on trying to be dramatic in what they do.

One thing that's interesting is I've heard so many lawyers say that they think that stuff in the movies and on television is silly. Me, I watch that stuff. I find if someone does something on television or in a movie that I think is very, very dramatic, I like that. And I think that's what you want to do.

I don't understand where there's a certain condescension involved with being dramatic, as if there's something wrong with it. There's nothing wrong with it.

I think to make things interesting should be part of our task because it is very interesting.

What types of skills can be learned or sharpened?

I had a life-changing experience when I was a senior in high school.

We had a local automobile dealer who went to a speech course and was so impressed with it he paid for a speech teacher to come into our school and teach us.

The biggest thing with the course was there were techniques that removed inhibitions.

If you're talking to 1,000 people — but particularly a jury because it's result-oriented — you don't speak at them; you engage in a conversation with them.

People talk about eye contact when you're talking to

a jury. You're not doing eye contact for the sake of eye contact. You're using eye contact to get from them how they're reacting to the words you are saying.

A lot of people don't understand that public speaking is a conversation.

I always take my (trial advocacy) class, and I have a series of questions I go through the first class.

I start by saying, "How many people think when you're speaking to a jury that it's important to have a smooth delivery?"

Everybody's hand goes up. "How many people think it's important to give a logical exposition as opposed to showing emotion?"

Everybody's hand goes up. "How many people think it's important to avoid repeating things?"

Everybody's hand goes up. "How important do you think it is to avoid (speech) tics?"

Everybody's hand goes up. And I go on with these various things, and then I say, "Pretend that your mind is a computer. I want you to push the delete button because everything that you think is important is a bunch of crap."

A smooth delivery is deadly. You want to put people to sleep? Talk in very round terms. When you're giving a delivery, you want to be all over the place.

Of course you repeat things over and over again and say them four different ways. It's not written. You want to drill it into their brains

I always say that the written word is the medium of the intellect; the spoken word is the medium of the heart.

When you speak, you want it to have an emotional edge. I'm not talking about emotion for the sake of being emotional. But if you're good at it, you want to touch something inside people. Particularly, if you're trying jury trials, what you're trying to do is reach into that person who's in the jury box and touch something that we all have in common.

(In law school), we have what I call the "kitchen table test."

If you're going to prepare an argument, sit across the

kitchen table from your spouse, your lover, your mother, father, child, whatever, and say, "This is what my case is about."

The idea is you would give a closing argument, or particularly, an opening argument, to a jury the same way you'd tell your mother over a cup of coffee.

What's it been like to take your experience and teach it?

I really enjoy it. I've always taught with another professor. They've all been very, very good.

I like teaching because I like to disavow. Trial advocacy is very different from the rest of their law school curriculum. It's dealing with the reality of trial practice, which most of these young people don't have.

What's it like to have worked in both prosecution and defense?

I loved being a prosecutor. I thought I had the two greatest jobs any lawyer could have as an assistant DA in Butler County and assistant United States attorney in the Western District.

I felt compelled to leave at a certain time, so I've been in private practice.

I think I'm a better defense attorney because I was a prosecutor, and I can see things from a prosecution's perspective.

The issue is whether you believe in your cause, whether you believe in what you're doing, and I truly believe in what I'm doing.

Philosophically, I think we put too many people in jail — too many people who are guilty of something but not what they say they are in prison for, and I have no qualms about defending people. There are a lot of misconceptions out there about what's going on in the criminal justice system.

So, the answer is, it's no trouble at all to be on both sides. ♦