

THE NEW YORK CRIMINAL BAR ASSOCIATION

An Affiliate of the National Association of Criminal Defense Lawyers



NYCBA Members Newsletter

Vol. 1, No. 5

February, 2004

Greetings. This is the fifth issue of our new monthly newsletter - and we hope you will continue to send us your comments and suggestions about what you would like to see included each month.

President's Message:

As many of you have probably noticed, the NYCBA website has been redesigned over the past month. As the content of the website continued to expand it became necessary to reorganize our menus and directories. The new format is not substantially different but will hopefully be much easier to use.

Previously, there was so much information displayed in each of the pop-up menus that the menus-themselves often exceeded the viewable area of the average computer monitor. To combat this problem, we have repositioned the menus from the left side of the screen, and moved them to the top of the screen. We also divided the menus into additional sub-categories for considerably easier use and management.

More than a cosmetic change, the new design will facilitate the continued growth of our website, which continues to boast more helpful links and information for the practicing New York criminal defense attorney than any other site available on the Internet.

Upcoming Events:

March 1, 2004, 6:00 - 9:00 p.m.

BEWARE OF FALSE CONFESSIONS: Should All Custodial Interrogations of Crime Suspects Be Video-taped?

A public forum co-sponsored by the New York Criminal Bar Association, the Justice Center, the New York County Lawyers' Association's Civil Rights Committee and Criminal Justice Section, and the New York Women's Bar Association.

Featuring:

- Hon. Richard A. Brown, Queens County District Attorney
- Hon. Amy Klobuchar, County Attorney, Hennepin County, Minnesota
- Christopher Dunn, Associate Legal Director, New York Civil Liberties Union
- Russell Neufeld, Attorney in Charge Criminal Defense Division, Legal Aid Society
- The New York City Police Department Legal Matters Department
- Eugene Nathanson, Chief Draftsperson of NYCLA's Resolution calling for the Videotaping of all Custodial Interrogations

Judicial Screening and Nominations:

The Mayor's Advisory Committee on the Judiciary has solicited our assistance in evaluating individuals submitting their application for consideration by the Committee for a judicial position.

If any member has information bearing upon the candidacy of the following individuals, please contact us at stulman@aol.com.

- Cassandra M. Mullen, Corp Counsel of the City of Yonkers
- Monica Drinane of the Legal Aid Society, Juvenile Rights Division

Web Site Features:

While we make changes on the NYCBA Web site on an almost daily basis, we try - each month - to point out some of the most significant new features that should be of interest to our Members. This month we feature the following items:

Recent Decisions:

Attached to this Newsletter is a copy of Judge John Gleeson's recent decision in [U. S. v. D'Angelo, No. 02 CR 399 \(E.D.N.Y. Feb. 18, 2004\)](#). In that decision, Judge Gleeson granted a new trial to the defendant after expressing some unusually strong criticism of the Government for its use of perjured testimony at trial. For example, at one point, Judge Gleeson commented: "The only difficult aspect of the motion for a new trial is understanding why the government has opposed it. The jury's finding that D'Angelo was guilty was a miscarriage of justice, not because the evidence was deficient on the jurisdictional element of the offense, as set forth above, but because the accomplice testimony implicating D'Angelo was patently incredible."

Our congratulations to fellow member Lloyd Epstein for an outstanding job in this case.

Legal Memoranda:

Attached to this Newsletter is a copy of an article that we recently posted in the Legal Memoranda Section of our Web site. The article, which is entitled "['Queen for a Day' Agreements and Proper Scope of Permissible Waiver of the Federal Plea Statement Rules](#)," was written by Benjamin A. Naftalis, for the Columbia Journal of Law and Social Problems, 2003-2004. We think you will find this article informative and insightful.

Computer Tips:

Is "spyware" lurking on your computer? Under the Computer Tips section of our Web site, we have added a new link to an excellent article about spyware. The article, entitled "[Spy Stoppers](#)," was written by Cade Metz, for the March 2, 2004 issue of PC Magazine.

The term spyware refers to the growing number of applications that collect information about your computer activities and then sends that information to another individual or company - or even the FBI and Attorney General Ashcroft - without your knowledge or permission.

Mr. Metz' article notes that today there are more than 78,000 spyware programs on the Internet collecting information from the unwary. The article continues: "Spyware [can] sneak onto your machine when you download many file-sharing services, open infected e-mails, or click on dubious Internet pop-up ads. They can manipulate your system, record your habits, and steal your passwords and credit card numbers. Depending on their degree of aggressiveness, they can steal your privacy or even your identity. And they can be terribly difficult to remove."

Most of the public's attention recently has been directed to computer and internet viruses. Spyware is a totally different evil - and it can be equally dangerous. The message is clear: you must have protection against both viruses and spyware. We recommend "[Spy Stoppers](#)" as a great way to learn what you must do to protect your computer from these invasions of your privacy rights.

Mr. Metz has reviewed a dozen or so of the many new software programs that are available to fight spyware. Those programs range in price from \$0 to \$70.00. For those interested, at the end of PC Magazine's review of available software, there are some informative articles that help you understand more about the way spyware apps work.

Lastly, don't forget: this is your Newsletter. We can only improve its content and its quality if you let us know what you like and what you don't like - or if you find any broken links. So, please stay in touch and send us all of your comments and suggestions.

Yours for a better defense,

Harvey Fishbein
President

Internet and Newsletter Committee:

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