

# Mark Geragos

# AND Pat Harris



AN INSIDE LOOK  
AT HOW THE  
CRIMINAL  
JUSTICE  
SYSTEM WORKS . . .  
AND SOMETIMES  
DOESN'T

# MIS- TRIAL

# MISTRIAL

AN INSIDE LOOK AT HOW  
THE CRIMINAL JUSTICE SYSTEM WORKS . . .



**Mark Geragos** *and* **Pat Harris**



GOTHAM  
BOOKS

## GOTHAM BOOKS

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**MISTRIAL**

*This book is dedicated to my father, Eugene Harris, a man who has lived life with integrity, a strong sense of devotion to others, and an unwavering dedication to his family. He is as good and decent a man as I have ever known and has set a standard for character that I will never live up to but which I strive for every day.*

—Pat

*I would like to dedicate the book to my father, Paul (Pops) Geragos. Pops taught me long ago that the single most honorable thing a man can do is to fight for those who have no one to fight for them. He has spent every day as an attorney living up to that belief. He has also made sure that I never forget the genocide of our ancestors, the Armenian people, at the hands of the Turks, and that I should continue his life work to make sure that the Armenian people always have someone to fight for them.*

—Mark

**MISTRIAL**

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## Introduction: Mark

From the time I was five, it was as if I was programmed to be a lawyer. For the first thirteen years of my life my father was a prosecutor for the Los Angeles County District Attorney's Office. I have fond memories of going to court and watching him and thinking to myself what a great job he had. You get to go talk with people, tell stories, go out to eat, and occasionally argue with people in court. And people pay you to do this. It seemed like a pretty sweet deal.

By the time I got to college, though, all that had changed. When I was a senior at Haverford College, I actually had thoughts about going in a wholly different direction. During college I majored in Sociology and Anthropology with a concentration of classes in the Philosophy of Religion. One of the professors whom I idolized was named to head the Divinity School at Harvard, and I gave serious thought to following him there after graduation. I even considered becoming a priest, which I suppose was a throwback to my days as an altar boy at St. Gregory Armenian Church of Pasadena. When I tell people that today, I usually have to pause for them to stop laughing, but at the time it was no joke. My sainted mother assumed I would follow in my father's footsteps and become an attorney, but I seriously considered going to divinity school. I spent the better part of my senior year in college agonizing over the decision.

Finally I went to Archbishop Vatche, who at the time was the head of the Western Diocese of the Armenian Apostolic Church, and told him my dilemma. I had known him since I was twelve years old and attended Armenian summer camp, and I respected him immensely. I fully expected him to encourage me to pursue divinity school and the priesthood, but as I explained my passion for my religious studies, he just kept shaking his head. After patiently listening to me pour my heart out, he finally responded in the tell-it-like-it-is fashion he was known for:

“Mark, I have seen you at church camp since you were twelve years old. We have spent the last five years disciplining you for drinking, smoking pot, and chasing the girls that have come to camp. I can’t afford to spend the next forty years trying to slow you down. Go be a lawyer and help represent the Church when we need you one day.”

So with what I guess was God’s blessing, I started law school. Sure enough, in law school I found a second calling—it just wasn’t to be a lawyer. In an effort to make a little extra money, I began moonlighting by booking bands at a local venue in Pasadena. It was the era of the B-52s, X, Oingo Boingo, Missing Persons, the Ramones, and the Plasmatics, bands that drew huge crowds partly due to their music and partly due to their penchant for blowing up things on stage. A young rock promoter could do very well for himself as long as he could afford the insurance. My last year in law school I was spending much more time promoting concerts than worrying about the arcane details of writing a will or setting up a trust.

Graduation from law school was not a foregone conclusion, but I managed to convince the registrar that my real-life experiences writing contracts and dealing with police raids were every bit as valuable as time spent in the classroom. In reality, the law degree was gravy. I was busy setting up a business empire in the music industry.

It didn’t take long for me to find the perfect opportunity. Having developed a relationship with one of the local radio stations, I was approached by a group that was attempting to buy a small but potentially

powerful rock station in Los Angeles. The station was new, but I believed it had incredible potential. Even more incredible was that I could own a large share of the station for approximately \$200,000. A quick check of my bank account showed that all I needed to come up with was \$198,500. Thankfully, the bank was inclined to give me a credit line for the purchase if my father would cosign for the loan.

My father, Paul Geragos, or Pops as he is more widely known, had been a legend in the L.A. County District Attorney's Office for more than a decade before leaving to set up a practice as a criminal defense attorney. He had been an immediate success in private practice largely due to his reputation as a take-no-prisoners courtroom attorney, and he was now reaping the financial rewards. I went to Pops and pleaded with him to loan me the money or at least cosign a loan with me. He turned me down flat. And of course, being a lawyer, he didn't simply say no. Pops used the opportunity to lecture me on the instability of the music industry and how I needed to get a job at the D.A.'s office, work for a few years, and then join his law practice.

Unable to raise the money, I passed on the opportunity, and the investors turned to someone else to supply the \$200,000. Five years later the radio station was number one in the entire L.A. market and the \$200,000 share I was to have purchased eventually sold for \$84 million. Pops loves retelling that story, always laughing uproariously at the end. My kids used to think it was hilarious too, until I explained the concept of inheritance.

The decision to become a criminal defense attorney rather than a prosecutor or corporate lawyer was an easy one for me because I am Armenian. If ever there has been a country in the world that has achieved permanent underdog status, it would be Armenia. Yet Armenians are a race of people who, despite repeated obstacles, have never stopped fighting no matter the odds. To me that is the essence of the job of the defense attorney and is branded into my DNA.

Armenia is a small country strategically located between Europe and Asia. It is bordered on the west by Turkey, or what I like to call “Occupied Armenia,” and on the southeast by Iran. It was not always small. Around 600 B.C. and again in the Middle Ages, Armenia was a major geographical and political force in the region, taking up parts of what are now Turkey, Iran, and Georgia. Unfortunately, the Armenians were not very good at warfare and kept losing land.

The total population of the country is approximately 3 million people. The diaspora of Armenians is a much heftier number, estimated at 8 million around the globe. California alone has an estimated 1 million ethnic Armenians. For most of the twentieth century, Armenia was a part of the Soviet Republic, having been taken over by the Soviet army after World War I. Since declaring its independence in 1990, Armenia has struggled to scrape away its Soviet barnacles, to become a democratic society, and in time to become a member of the European Union.

During my life, I have on countless occasions had to explain to people that Armenians are not Iranians, are not Albanians, are not from a country in South America, don’t speak Persian, aren’t fire worshipers, and, most especially, that their capital city isn’t Glendale, California.

All four of my grandparents were Armenian and survivors of the Armenian Genocide. Largely forgotten and ignored, it was the first genocide of the twentieth century. Ottoman Turkey under the tutelage of the Germans engineered the slaughter of more than 1.5 million Armenians between 1915 and 1923. It is rare to find an Armenian who does not have a relative who was killed by the Turks. The murdering and driving into the desert of millions of Armenians is why the diaspora of Armenians in other countries is nearly three times the number of Armenians in Armenia.

Like all children of Armenian ancestry, upon learning the stories of the genocide, I felt a heavy burden to someday grow up and do whatever I could for Armenia and to honor my grandparents and

great-grandparents. The law has allowed me to do that. There will always be cases of mine that receive more publicity, but to me, my legal career will always be defined by what I am able to do to honor the victims of the Genocide. That is the spirit of the Armenian people. It was best expressed by the well-known Armenian writer William Saroyan:

I should like to see any power of the world destroy this race, this small tribe of unimportant people, whose wars have all been fought and lost, whose structures have crumbled, literature is unread, music is unheard, and prayers are no more answered. Go ahead, destroy Armenia. See if you can do it. Send them into the desert without bread or water. Burn their homes and churches. Then see if they will not laugh, sing and pray again. For when two of them meet anywhere in the world, see if they will not create a new Armenia.

With that heritage, there was no way I was going to be anything but a defense attorney.

The idea behind *Mistrial* is to go behind the scenes as never before and let the reader get a glimpse of the good, the bad, and the ugly. At times, *Mistrial* may come across as a diatribe about how the system is becoming unfairly weighted to the prosecution, and there is definitely some of that in the book. But although I have my cynical and even bitter moments, I hope that *Mistrial* also makes the reader understand that I love what I do—absolutely love it. It is not only my job; it is my only real hobby. Do I get frustrated? Absolutely. Would I want to do anything else? Absolutely not!

Furthermore, whining about it isn't going to do any good anyway. It is important to recognize what is going on in the system and adjust accordingly. We talk a lot about how the system used to work twenty to thirty years ago, not because we expect it to go back to that, but

because it is important to recognize the changes and adapt. For example, if a defense attorney fails to realize the effect that media coverage has had on jurors in the past two decades, he or she is headed for trouble.

Over the course of thirty years of practicing law, I have tried more than three hundred cases and represented thousands of clients. I may not have seen it all, but I have seen more than my fair share. I think Pat and I are uniquely situated to write about the criminal justice system and how the perceptions have changed over the years. We have worked on cases that have involved celebrities such as Michael Jackson, Chris Brown, Winona Ryder, and Mike Tyson. We have worked on cases that have made ordinary people into celebrities, like Susan McDougal, Scott Peterson, and Gary Condit. And every single day we work on cases, from murder to shoplifting, where nobody knows the defendant but the case is just as important to that defendant as any high-profile case. We have traveled across the country and worked on cases in twenty-three states, including Arizona, Texas, New York, Pennsylvania, Washington, and Florida. In short, I doubt there are two lawyers anywhere who have seen both ends of the spectrum and everything in between from as many different places as we have.

We have talked about writing this book for a number of years. A couple of months ago we were sitting in a cigar bar in New York when some semiloaded lawyer wandered over to our table and asked to sit down. He then proceeded to tell us how despicable we were for representing people like Scott Peterson and Michael Jackson, and how we were what was wrong with the system. Given his condition, I didn't want to engage with him, but when he walked away I looked at Pat and said, "It's really gotten bad when we are at the point that even lawyers don't understand what the hell is going on in the system. We really need to write the book!"

## Introduction: Pat

The first time I met Mark Geragos was when I went to his office to fire him. At the time, I was engaged to Susan McDougal, the woman who was sitting in a jail cell in Los Angeles because she refused to talk to Kenneth Starr's Whitewater jury. She also had a pending case in Los Angeles involving false accusations of embezzling from a former employer. Before she was transferred to Los Angeles, I had been working as a public defender for two years in Nashville, Tennessee, but after she was moved to L.A. I quit my job to move there and work on the case. Since I had no California bar license, my first order of business was to find a California lawyer who was willing to take the case. That was not an easy task, because we had no money and we were essentially asking a lawyer to do the case pro bono.

When I arrived in L.A., I made contact with the name lawyers—Vincent Bugliosi, Leslie Abramson, Johnnie Cochran—but I could not drum up any interest. Over the next few weeks, I met with at least ten lawyers, pleading with them to take the case and telling them that the media coverage would help their careers. Nobody was buying it.

Then one Sunday, Susan made her nightly call from jail. She sounded a little sheepish, which was very un-Susan-like, and I could tell that something had happened that she was nervous talking about. Finally, she blurted it out.

"I think I hired a lawyer!"

"You what? What do you mean you think you hired a lawyer?"

"Well, I signed a retainer with this guy."

"Oh my Lord! Susan, why would you sign a retainer with some guy that I haven't even spoken to or done any research on?"

"I liked his shoes."

"That's why? You hired a lawyer because you liked his shoes?"

"I also like his briefcase. He just gives off the appearance of being very successful."

"What is this guy's name?"

"Mark Geragos."

"I've never heard of him. You can't sign a retainer because you liked his shoes and briefcase. You realize that I am going to have to go see this guy and fire him."

The next day my brother, Ron Harris, who was in town visiting, and I drove to downtown Los Angeles and walked into Mark's office unannounced. I didn't want him preparing for what was coming. When we were ushered into his office, he was very gracious and polite and seemed somewhat amused that we were there. More than that, he had a plan and he knew exactly how he was not only going to help Susan on the L.A. case, but he was going to help her fight Starr and the Office of Independent Counsel. His father, who was also his law partner, was an old-time Roosevelt Democrat, and he had approached Mark about representing Susan, even though he knew that it could cost the firm a lot of money. His father had told him that "if that little girl can stand up to Starr, then the least we can do is stand up for her."

When we left the office, I was a little too dazed to speak. Not only was his demeanor impressive, but this was a lawyer who was extremely enthusiastic about representing Susan. I looked at Ron and asked him if it was possible that we had really gotten lucky enough to stumble into a lawyer this good.

The answer turned out to be yes. Not only did I not fire him,



within a month he hired me to work at the firm, where I have now been for fifteen years. He won Susan's case in Los Angeles, and then we went to Arkansas, where we whipped Starr and the Office of Independent Counsel in a trial there. Oddly enough, Susan and I split up, but Mark and I stayed together.

Unlike Mark, I always planned on being a lawyer. My grandfather George Patterson was a lawyer and later a judge in the small town of Clarksville, Arkansas. He died when I was only three, but I grew up having people stop me on the street to tell me stories about how he had represented them for free or for a bushel of corn because they had no money. My mother would tell us how widely respected he was and about the large number of people he had helped. He was a real-life Atticus Finch, at least in the mind of an impressionable young boy. My brother, Ron, and my sister, Cheryl, also had the same experience, and they became lawyers too.

My route to law school was a little more circuitous than most students' as I worked in politics, entertainment, real estate, restaurants, baseball, and taxi driving before I made it to law school at the age of thirty-one. I always knew I was going to be a lawyer; I just wasn't in any hurry.

Unlike a lot of my law school classmates, I didn't love the law. I wasn't interested in analyzing an appellate court decision on some obscure antitrust statute from 1931 as an academic exercise. What I was interested in doing was getting into a courtroom, and law school was the necessary evil to get me there. Other than a brief fling with First Amendment law, my only real law school relationship was with criminal law and the classes that pertained to evidence and criminal procedure.

My confidence in my future courtroom abilities bordered on cockiness. I had always done a lot of public speaking, beginning at the age of sixteen when I preached a sermon at my church. My confidence took a hit, however, at an oral argument competition during my second year of law school at the University of Michigan. Each