

TASTE

The Case of the Legal Thriller

The law is dull. So why are these books popular? A cross-examination.

By Cameron Stracher

Ever since Scott Turow reinvigorated the genre with "Presumed Innocent" in 1987, legal thrillers have been among readers' favorite guilty pleasures. At this moment, John Grisham sits atop the New York Times hardcover and paperback fiction bestseller lists, Lisa Scottoline also makes appearances on both, and Steve Martini weighs in on the hardcover list. Mr. Grisham heads today's Wall Street Journal's list, too, with Ms. Scottoline not that far behind. This despite the fact that the law itself is about as thrilling as the Internal Revenue Code, that lawyers are among the unhappiest of professionals, and that copying machines play a major supporting role in most litigation. How on earth did this amazing legal-literary popularity come about?

Not surprisingly, by not being too legal—retaining a patina of money and courtroom derring-do while discarding the documents (although Grisham's "The Firm" did manage to turn photocopying into a nail-biter). Readers want to feel smart, but they don't want to be locked in a conference room with cartons of takeout Chinese and a stack of pleadings.

This anti-realism is not new. The old "Perry Mason" TV series, for instance, tarted up a staid profession by turning drudgery into gumption and introducing enough surprise witnesses to earn a real lawyer a Rule 11 sanction. "The Defenders," for all its high-mindedness, was little better. Since then, lawyering on TV has only gone further downhill in the verisimilitude department, thanks to lawyer/writer/producer/every-mother's-dream David E. Kelley and his "Ally McBeal." For starters, lawyers don't sing, and they definitely don't dance, at least not well. But you knew that.

The Literal v. The Literary

The print version of legal life is not quite as goofy, choosing to follow several tedious conventions shamelessly. First is the legal literalness of the thriller's title. All but the first of Mr. Grisham's novels begin, as quick-witted readers have noticed, with the word "The" followed by no more than two other words, one of which can be found in a standard legal dictionary, such as "Firm," "Partner," "Client." Lisa Scottoline's titles include "Final Appeal," "Legal Tender" and her latest, "Moment of Truth" (not to be confused with David Baldacci's latest, "The Simple Truth"). There's Mr. Martini's "The Attorney" and John Martel's "The Alternate" and George Green's "The Juror," which, when combined, do not

equal Kafka's "The Trial." Interestingly, no one has yet written "The Ambulance Chaser."

Even Mr. Turow, the most literary of the big legal-thriller writers, takes no license with titles, giving us, along with "Presumed Innocent," such clunkers as "The Burden of Proof," "Pleading Guilty," and, most recently, "Personal Injuries." Not for him and his law-schooled brethren something as fancy as David Guterson's "Snow Falling on Cedars," which, despite its moniker and literary elegance, happens to be one of the best legal thrillers of recent vintage. (Other great thrillers, also written by non-lawyers, include Chris Bohjalian's "Midwives," about a midwife accused of murder, and Jonathan Harr's "A Civil Action," the nonfiction account of a toxic tort litigation, which comes closest to including the documents.)

The main character in the legal thriller is no less predictable: an attorney, of course, preferably specializing in criminal defense. And there should

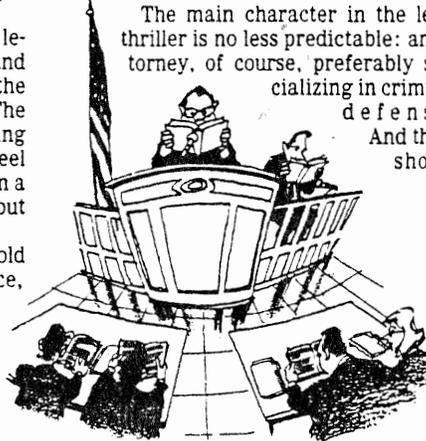


Illustration by Howard Chandler Christy

be a trial scene, though many Grisham novels lack one. This raises the existential question of whether Mr. Grisham is a writer of legal thrillers or of just thrillers whose main characters happen to be lawyers—a question that could make a good dissertation topic in some cultural studies department. Indeed, the trial scene is the *sine qua non* of the legal thriller. It's guaranteed drama and a guaranteed epiphany, though as anyone who watched the O.J. Simpson trial knows, a good editor is everything.

Ms. Scottoline, in "Moment of Truth," also passes on the big trial scene, preferring to have her heroine, Mary DiNunzio, investigate her client's innocence. Indeed, one of the principal inaccuracies in many legal thrillers, and the very one that keeps the pages turning, is the conceit that the lawyer can discover whodunit.

In the real world, as we know from Court TV, the defense lawyer's job is not to find the real killers but to punch holes in the prosecutor's case. (On TV, Mr. Kelley's

"The Practice," while bizarre in other respects, gets this detail right.) Legal thrillers shift the burden of proof, in a sense, leading audiences to believe that truth is the best defense. It might be, if your client is innocent, but in real life most clients are not. Of course, a book that glorified a lawyer's ability to trump the system would lack a convincing hero. For some odd reason, we still don't like it when the bad guys get away.

Imagined Perils

Other conventions include physical peril, which no lawyer—short of a briefcase falling out of an overhead compartment—has ever experienced on the job. Nevertheless, Mitch McDeere, in Mr. Grisham's "The Firm," is always one step ahead of the Mob, while Ms. Scottoline's DiNunzio literally takes a bullet for her client. Similarly, lawyers in thrillers are usually forced to rely on their massive mental prowess to outwit criminal masterminds or out-think dim but far more experienced police detectives. Of course, in real life the average lawyer expends the bulk of his brainpower dividing the hour into the smallest number of billable units and then adding them back up again.

Finally, most writers of legal thrillers trade on the experience of their day jobs to claim authenticity. Thus Linda Fairstein proclaims on her book jackets that she spent 20 years as a sex-crimes prosecutor. Ms. Scottoline writes "legal thrillers that draw on her experience as a trial lawyer at a prestigious Philadelphia law firm." Mr. Turow trumpets that he once was an assistant U.S. attorney.

These biographical tidbits are meant to reassure us, the presumably gullible members of the book-buying public, that we're in good hands, as if being a midget is a prerequisite for writing about the circus. Only Mr. Grisham, on the jacket for "The Brethren," is content to remind us of the gazillion books he has sold without mention of his former civil practice. He's transcended his resumé, which, for a lawyer, is no easy task.

So at the end of the requisite 360 pages of "The Really Big Case"—after all the sleuthing and gun fights and witness-box confessions—we may not have learned anything about the Federal Rules of Civil Procedure or the real life of lawyers. But who cares? The legal thriller triumphs by avoiding the awful truth and sticking to the thrills. It's not really a fair result, but what lawyer would want it any other way?

Mr. Stracher is the author of "Double Billing: A Young Lawyer's Tale of Greed, Sex, Lies, and the Pursuit of a Swivel Chair" (Morrow, 1998).