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Commitment drives Lubin in criminal defense cases

By CAROL WRIGHT

Daily News Staff Writer

Criminal defense attorney Richard Lubin has three secret passions — his Harley-Davidson, golf and the New York Mets.

"I love golf and whenever I can I play with a regular group of guys. I love to drive my motorcycle around town, but I'm an insane New York Mets fan. The hardest thing is when spring training is here and I'm stuck in court."

Somehow it fits that Lubin's favorite team began as baseball's classic underdog because that is how he characterizes his work.

"I've always liked being the one fighting on the side of the underdog, and a criminal lawyer is always the one doing that," said Lubin, one of a handful of high-profile criminal defense attorneys in Palm Beach County. His name has become even more familiar around the island since he began representing James Sullivan and Linda Cooney. Lubin is defending Sullivan, former chairman of the Landmarks Preservation Commission, on firearms charges. Cooney is charged with murdering her ex-husband, James Cooney, whose family is from Palm Beach.

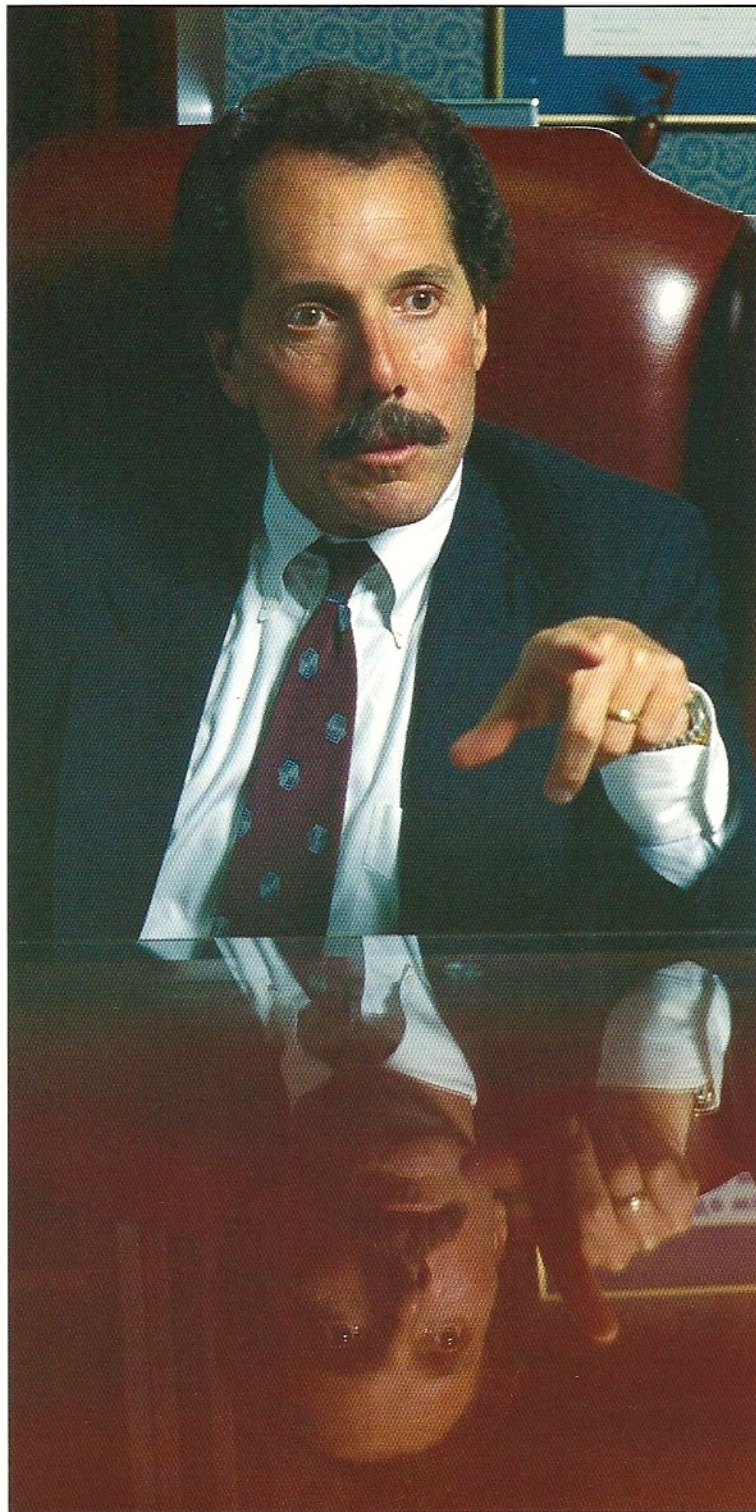
Lubin, 44, can't remember a time he didn't want to be a criminal defense attorney. "I never wanted to be a prosecutor, I was always interested just in criminal defense."

His commitment to his work shows when he talks about people in need of a lawyer. "No matter who you're representing, whether they are rich or poor, black or white, when somebody is accused of a crime, everything in their life changes," he said.

"People who you thought were your friends begin to shy away, the bank won't lend you any money, you lose your job or you can't get a job. I have always liked to be the one representing that person."

There's another reason for Lubin's commitment to criminal defense law — something he believes with all his heart, he says. "The mark of a reasonably free society is the way that society deals with its citizens accused of a crime.

"When we talk about individual freedoms, what we're really talking about is: Are you treated fairly? Are you innocent until proven guilty? Are you forced to prove your innocence? Do you have a right to a lawyer? Those kinds of rights, which are slowly being whittled away in our society, are the rights that keep a country free and I believe the criminal defense lawyer fights to preserve those rights."



Daily News Photo By ANN STODDARD CROOK

Criminal defense attorney Richard Lubin says he's always liked being the one fighting on the side of the underdog.

It doesn't matter that sometimes the person you're defending could be guilty or is somebody the public doesn't like, Lubin said. "It's the right and the constitutional issue that's important there. Some of the most famous, most important landmark cases of the Supreme Court arose out of the public defender offices or a particularly gruesome crime, but the constitutional issue is what's really important."

Surprisingly, Lubin says that the first day of a trial actually scares him.

"I can't describe it, but that first moment when the jury panel comes in always frightens me. There are 30, 40 or 50 prospective jurors and they know nothing about you or your client and you look around and it's you and him. I mean he's sitting there and there is nothing between him and a conviction except what you can do."

The fear comes not from stage fright, he said, but from worrying whether he overlooked something. "It's not that I'm afraid to walk through the courtroom door. My biggest fear is did I miss anything? Everything we do is to make sure nothing is missed. That's what drives me. But now it's the opening day of trial and you're thinking 'Is there anything else I could have done to prepare?'"

To make sure there's nothing left to chance, Lubin takes a team approach to the job. "Everyone is involved in every case we handle. You rarely see me in court without Tom [Gano, Lubin's partner]. We work as hard as we can to prepare so we know everything there is to know about a case and about the people involved in a case. We try never to go to court on a case where we don't know more than the prosecutor."

Preparation and digging are the keys to winning in the courtroom, Lubin said. "I can't tell you how often a case will come into the office and on its face it looks bad. And then you begin to dig and you begin to prepare and you begin to check things out, you begin to question and all of a sudden you start finding out things. You start discovering that things aren't exactly as they've been represented to be, that witnesses are in conflict, that witnesses are not who they've said they are. You keep digging, pulling, tearing apart and pushing and you find amazing things about what has been done and that's the way you win cases."

A separate set of problems comes into play for a lawyer working on high-profile cases. "For one thing, it's much more difficult because your adversaries are generally the more experienced prosecutors, the ones who have earned the right to handle those kinds of cases," he said.

"When a prosecutor is under scrutiny he or she will dot more i's and cross more t's, spend more time preparing. It's just human nature when the prosecutor knows the courtroom is going to

be filled with reporters to go in prepared."

When the attorneys aren't under that kind of pressure, it translates into easier working relationships, said Lubin. "It's a lot more difficult in the limelight than doing things quietly; you're working just as hard but no one is looking at us and they get relaxed."

For all the problems with media attention in big-name cases, Lubin would have loved to have taken on the William Kennedy Smith trial.

"If you're a criminal defense lawyer who loves the fight, that would be a great case to handle. Roy Black is a good friend of mine and it couldn't happen to a nicer guy that he got it and that he prevailed. I knew he would. He's an excellent lawyer. But sure, I would have liked to have had that case. Here was a case on television from gavel to gavel worldwide and who won it was in front of the world."

Lubin doesn't get annoyed over media attention to his cases because he said he is a big believer in the First Amendment and a supporter of the press. "I believe in the public's right to know, in a public trial. The alternative is a closed trial and who knows what could go on?"

But sometimes there are news reports that lawyers are unhappy with because of the slant or inaccuracies, he said. One of the problems, he said, is that being accused of a crime automatically paints a person in a bad light.

"A citizen over here in Palm Beach could be wrongfully accused tomorrow. If he's a prominent citizen in Palm Beach and that story is written, then it's the mere fact of the accusation that makes a person look bad. It's not like they're writing about what charity work they've done. It's that someone has accused them of committing a crime. So on a high-profile case managing that to some extent is a part of the defense."

Lubin says because he won't discuss any facts of a case that have not yet come out in court, "it's not necessarily easy to help the reporters get an accurate image of everything."

"It's frustrating when a reporter misunderstands the gist of things that went on in the courtroom. It drives you nuts when you pick up the paper and you have just made what you thought was a great legal argument and they totally missed it," he said. "I don't want to criticize the press, but they wouldn't throw somebody in there to cover a Miami Dolphins game who didn't know football, and they shouldn't throw somebody in there to cover the nuances of a money-laundering or a murder or a rape case who doesn't understand something about what it is."

Lubin says if he ever does leave the courtroom, there is one thing he would enjoy doing. "I plan on doing some more teaching. I really like that, whether it's

just on a seminar basis or actually teaching at a law school. I really want to do more teaching."

He does some teaching now when he can fit it into his schedule. "I'm on the faculty of the National Criminal Defense College, in Macon [Ga.]," he said.

A mark of Lubin's success is being accepted as a member of the American Board of Criminal Lawyers. "It's something I'm very proud of," he said. The criteria for getting in the organization are tough. "You have to have tried a minimum of 50 jury trials, 10 of which your client was facing death or life in prison and you won."

Lubin says he has learned a lot about life through his work. "What you learn coming up through the public defender's office is that no matter how bad the crime alleged is, the people accused of committing them are just people. It makes me look at things in life a little differently because I realize very often my clients are good people who have slipped or faltered along the way and you realize a lot of these things could happen to anybody."

"We represent all kinds of people charged with a crime — from DUI's to first-degree murder to bank fraud. You realize that a lot of these things could happen to anybody, and I've learned that innocent people can get accused, that circumstances can make it appear you did something you didn't. And you learn that sometimes good people do bad things."

Lubin says representing someone who is innocent is scary, but when you convince a jury of your client's innocence, "it's a big relief, a great relief."

It's also a big part of why Lubin loves his job. "I love it. I love what I do."

FACTS ON LUBIN

Name: Richard Lubin

Occupation: Criminal defense attorney with Lubin and Gano law firm, West Palm Beach

Age: 44

Born: Brooklyn, New York

Education: Boston University, 1970; Georgetown University Law Center, 1974.

Career: Palm Beach County Assistant Public Defender, 1974-1976.

Went into private practice 1976; formed his own law firm 1980. His first partner, Nancy H. Hamill, died six months after they went into practice together. Her name remains on his business letter in memoriam.

Professional affiliations: Palm Beach County Bar Association; American Bar Association; Florida Academy of Trial Lawyers; Palm Beach County Legal Aid Society, president since 1979; Palm Beach County Association Criminal Defense Lawyers, president 1989-90; National Association of Criminal Defense Lawyers, board of directors since 1983; American Board of Criminal Lawyers, board of fellows; National Criminal Defense College faculty member.

Recent honors: Top rating Martindale-Hubbell Law Directory; top rating The Best Lawyers in America; top rating National Directory of Criminal Lawyers, 1991 edition.