



## Crime & Punishment

James Alan Fox on criminal behavior and the justice system

### Odgren case: Will emotions overrule motions?

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The jury that will soon determine the fate of John Odgren, a deeply troubled young man on trial for the stabbing death of 15-year-old James Alenson inside a bathroom at Lincoln-Sudbury Regional High, has a doubly difficult task. Not only must these ordinary citizens of Middlesex County plow through contradictory psychiatric testimony from experts offered by the prosecution and the defense, but they must attempt to do so untainted by displays of emotions from both sides of the gallery aisle.

The seating arrangement inside courtrooms is a critical yet often neglected factor with the potential for affecting trial outcomes. In *Commonwealth v. Odgren*, it may make all the difference in how the jury decides this emotionally-charged murder case. The family of the victim sits no more than six feet from the jury box, while relatives of the accused occupy seats that are at least ten yards from the jurors. When testimony evokes tears or other visible signs of raw emotion, the distances and sight-lines for the jurors may make the world of difference.

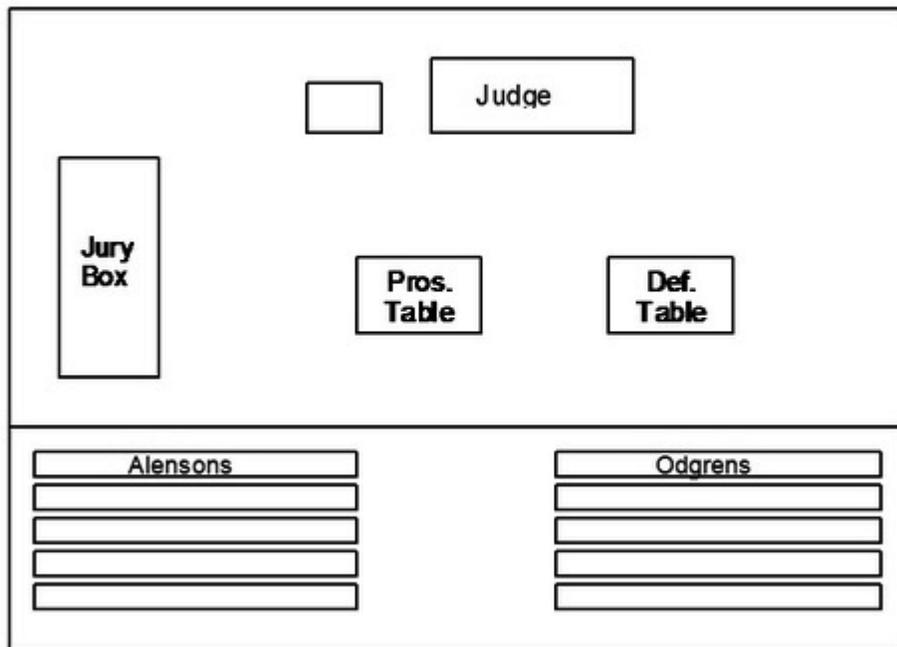
It is a common tactic for attorneys to encourage large numbers of friends and relatives of the victim or the accused to be in court because of how this show of support impacts the jurors. However, placement can be just as important as turnout. As in real estate, it is all about location, location, location!

“A criminal trial is much like theater,” noted J.W. Carney, Jr., a prominent Boston attorney, “and I’m always conscious of the subtle aspects.” A small yet significant part of his trial success involves strategizing with regard to client support. Carney specifically instructs the relatives of his defendants to arrive early at court so as to claim seats front and center. Meanwhile the families of victims, often sequestered in a private room accompanied by the victim-witness advocate, usually appear in the courtroom just prior to the start of proceedings. When, on occasion, a court officer asks him to have his client’s family relinquish the choice seats to the relatives of the victim, Carney flatly refuses.

In a recent publication sponsored by the National Association of Criminal Defense Lawyers, Ft. Worth attorney Mimi Coffey challenges the constitutionality of the customary courtroom arrangement in which the prosecution table is closer to the jury box than the defense table. According to Coffey, this affords the prosecution a better vantage point for making eye contact and for observing important signs of body language.

The Woburn courtroom to which the Odgren trial is assigned has the usual configuration of attorney tables behind which there are several rows of gallery benches divided in the middle by a wide center aisle (see below). The victim’s family—his mother, father and a few others—is seated behind the prosecution and the defendant’s mother, father and brother are behind the defendant. Although the alignment of the two families behind the respective attorney tables is logical, the potential unfairness identified by Coffey may be compounded. After all, Alenson’s parents are almost within arm’s reach of the back end of the jury box.

Anyone who has ever planned a wedding, bar mitzvah or other ceremonial event knows of the complexities and importance of seating arrangement. The same level of care would be appropriate in courthouses, especially when the human emotions are as critical as legal motions.



Courtroom 730, Middlesex Superior Court in Woburn, MA