

Tough Enough

Ask their clients and their peers. Criminal defense lawyers Penny Cooper and Cristina Arguedas are the best in the business.

BY SUSAN BECK | PHOTOGRAPHS BY LORI EANES

The 14-year-old girl has just testified that the defendant stuck his tongue inside her mouth and rubbed his hand between her legs. But when the prosecutor asks exactly where 29-year-old Gurdeep Sandhu put his finger, she can't form the word. The judge passes her a scrap of paper. "Virgina," the girl scribbles.

"How did you feel when he was doing this?" prosecutor Nancy O'Malley asks softly.

The girl, who was 13 at the time of the incident, stares at her lap. Tomboyish and big for her age, she has a sweet, round face and thick, dark hair. Despite the 90-degree heat outside,



she's layered in jeans, a turtleneck, and an oversize flannel shirt.

"Did you want him to do that?" O'Malley asks.

"No," she says meekly.

O'Malley coaxes the girl through her recollection of the day last spring when Sandhu, a San Ramon insurance salesman she'd met in an America Online chat room, visited her at her home. As she tells it, the man she knew as Rick asked if she'd ever been kissed. She told him no. Soon they were on the living room couch, his "private part" inside her. "I told him it hurt," she recalls. "He said it would go away soon." Then her mother came home unexpectedly and found them.

When the prosecutor finishes, the Pleasanton courtroom is absolutely still. Sandhu's lawyer, Penelope Cooper, strides to the podium, grabs the lectern, and throws the girl a smile. Sandhu, handsome and neatly dressed with no criminal record, is charged with felony molestation and burglary. Cooper, who has spent the last 33 years defending the worst kind of behavior, thinks she can cut a deal that will keep him out of prison. First, though, she needs to get through this pretrial hearing, which means breaking the somber mood and telling the story in a way that doesn't make everything seem quite so clear-cut. "You got some energy left for me?" she asks the girl in a hearty voice.

Cooper starts with softball questions about the girl's grades and favorite sports. "Everybody thinks you're a bright girl, right?" Cooper says, turning on the charm. But the easy way the lawyer moves around the courtroom, confident and powerful in her dark pantsuit, quickly becomes intimidating. The girl looks

"I think I may have. I'm not sure."

In the hallway after her cross-examination, Cooper is pleased. It still looks bad for Sandhu—after all, even a curious 13-year-old is still just a 13-year-old—but Cooper has managed to shift the story while steering clear of the sex acts her client stands accused of. She thinks the prosecutor may eventually agree to a pretty good deal. Then the girl and her parents emerge from the courtroom. Cooper greets them like old friends. "Hi, there," she says to the girl, who smiles back. "She's a delight," Cooper tells her parents, who beam proudly.

The next day, Cooper sits down to lunch at Chez Panisse with her law partner Cristina Arguedas. Arguedas, 43, gleaming blond hair, fair skin, crisp white blouse, sits erect, her motions few and deliberate. Cooper, 15 years older, darker skin, darker hair, darker clothes, slumps as she fiddles with her salad fork. Both women wear their trademark pantsuits, expensive designer labels cut more for comfort than for style. Neither carries a purse or briefcase; their pockets hold everything they need.

"I feel in my heart that this woman wasn't harmed," Cooper argues. "I think Sandhu was nice to her, and I think she liked it."

Liked it? Arguedas's eyes practically pop out of her head. "The girl was too young," she cries, smacking Cooper on the arm. Of course, that doesn't mean she wouldn't have confronted the girl with the same questions.

In the somewhat politically incorrect world of criminal defense, Cooper and Arguedas stand out as stars. Though some may argue that's a dubious achievement, neither of the women apologizes for her role in aiding accused murderers, rapists, child molesters, drug kingpins, and corporate polluters.

"I think anybody who's moderately knowledgeable has to think we're living in a time of hysteria about crime that's bad for society," says Arguedas. "There's a whole world out there concerned about whether a defendant is going to commit another crime, and only a tiny speck concerned about whether the person got a fair trial."

In a field where burnout is common, this fighting attitude has kept Arguedas and Cooper passionate about their work. The two women, who have been partners for 15 years, are impressive lawyers individually. Together, they are acknowledged as one of the most potent defense teams anywhere.

Their complementary personalities and talents give their law firm the depth to master nearly any type of criminal case. Cooper loves the kind of shocking and outrageous cases that keep true-crime writers in business. Former Health Net executive Walter Woodbury, arrested last June for allegedly trying to sledgehammer his wife to death in their garage in Orinda, is a client. So is Elliot Kwok, a former Kaiser Permanente chief pharmacist accused of trying to murder a woman he was romantically obsessed with. (After Cooper successfully argued that Kwok was playing a misguided prank on the

woman and never intended to kill her, he was convicted of the much lesser charge of assault.) In 1996, after appeals lawyers won a new trial for George Franklin, the former San Mateo firefighter convicted of a 20-year-old murder based on the "recovered" memories of his daughter Eileen, Cooper was brought in to help convince prosecutors to abandon plans for a second trial. (She got Eileen's

outside the criminal defense mainstream. Most female defense lawyers are overworked, underpaid public defenders juggling caseloads of street-thug clients. Few have excelled in private practice, where referrals are everything and an old-boys network controls most of the work.

In large part, the two have succeeded because they've defied expectations about what female



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a little scared when Cooper hands her a piece of paper.

"Is this the profile you used for AOL?" Cooper asks, forceful but not harsh. The sheet shows the "handles" the girl used to identify herself to fellow chat-room participants: "Old Enough for You" and "Ask Me Anything."

The girl says she doesn't remember the first name, but that she probably wrote the second.

"How many other men did you have conversations with online?" Cooper asks. "Did you ever talk to anybody online about sex?" The girl admits she discussed sex with several men and downloaded sexually explicit photos from a German chat room. "So they were like nudie photos," Cooper says in a playful tone that makes the girl laugh.

"Before Rick came over, did you have any conversation with him about sex?" Cooper asks. Yes, the girl concedes. By phone. "Did you ever tell Rick you wanted to experiment with sex?"

sister to admit in court that her earlier statements were inaccurate and testify that Eileen had lied when she said her "memories" were not retrieved through hypnosis. Franklin was not retried.)

Arguedas gravitates to more cerebral and complex white-collar-crime cases, with clients such as Rhone-Poulenc, Unocal, and Shiaoli Li Huang, a Silicon Valley executive charged with stealing computer secrets from a rival company. She has the discipline to wade through the mountains of documents these cases typically generate and excels at the intellectual jousting that federal judges often enjoy. Thanks in part to the prominence of her longtime domestic partner, Assemblywoman Carole Migden, Arguedas's recent activities included a year as president of California Attorneys for Criminal Justice, the defense bar's activist arm, and a stint as chairperson of Senator Barbara Boxer's Judicial Selection Committee, which recommends Bay Area lawyers for the federal bench. (Cooper is less political, sharing an interest in art, theater, and opera with her domestic partner of 21 years, Rena Rosenwasser, who runs Berkeley's Kelsey St. Press.)

If you measure success in financial terms, Arguedas and Cooper have all the trappings of the top: a splendid art-filled office in Emeryville, homes in the Berkeley Hills, fancy cars, vacations around the world. Cooper has charged as much as \$10,000 a week when in trial; Arguedas bills \$300 to \$350 an hour.

Perhaps the most reliable indicator of their stellar status is a comment you hear again and again from their legal peers: "If I were in trouble, I'd want Penny or Cris, or both, to represent me." Their accomplishments are all the more notable because, as women and lesbians, Cooper and Arguedas are

lawyers are supposed to be. Cooper and Arguedas project a brand of assertive confidence that meshes with macho: Anything that gets in the way, whether it's high-heeled shoes or societal assumptions about how women ought to act, they simply eliminate from their lives. Yet their feminine qualities often end up benefiting their clients, as in the Sandhu case, where Cooper can use a blame-the-victim defense and still endear herself to the girl's parents. (At press time, Sandhu was still awaiting trial.)

Many of their clients are men who could make the National Organization for Women's Most Wanted list—among them the most notorious wife-beater of recent years, O.J. Simpson. During his murder trial, Arguedas and Cooper flew to Los Angeles to put Simpson through a mock cross-examination to find out how well he would fare in the courtroom against a tough female lawyer.

And these women are tough.

"I always say that I know I'm succeeding in a cross-examination when the witness starts to say, 'Yes, sir, no, sir,'" Arguedas comments. "And they always do."

Penny Cooper grew up in Denver during the 1950s, when smart women were expected to become legal secretaries, not lawyers. She was president of her sorority at the University of Colorado, where she considered a career in journalism until rejecting it as too poorly paid. In 1961, she enrolled at U.C. Berkeley's Boalt Hall School of Law, one of only fifteen women in her class. Law school bored her, so Cooper and her roommates threw parties and concentrated on having fun. Academically, she was not a star.

She discovered her true calling in her first job out of

Cris Arguedas (left) finds defending clients accused of complex white-color crimes anything but dull; partner Penny Cooper thrives on the kinds of outrageous cases that keep true-crime writers in business.

Satisfied clients (from left): W. Franklin Chinn's conviction in the Wedtech government-contracts scandal was overturned; George Franklin was not retried for murder; O.J. Simpson (at left, with lawyers Johnnie Cochran and Robert Shapiro) was persuaded not to testify.



law school, as an Alameda County public defender. Her fascination with the stories behind her clients' cases spurred her to burrow into the evidence until she found that shard of fact that would throw the government's case off-kilter. In court, her seemingly effortless ability to think on her feet allowed her to manipulate the evidence as if she'd had a premonition of where the case was going. Instinctive and psychologically astute, she became a master at finding the narrative thread in a client's story that would explain to a judge or jury how a fundamentally decent person could get caught up in an unfortunate mess.

After four years, Cooper struck out on her own with fellow public defender James Newhouse. Two weeks after they opened their office, in 1968, Berkeley police arrested 400 protesters marching on Shattuck Avenue. At the church where the marchers gathered after getting out of jail, Cooper stood up and promised, for a \$100 fee, to get any client a jury trial. Instead, she and Newhouse got the charges dropped, earning a quick \$12,000 and building a huge client base.

Their practice flourished with the turmoil of the times. Cooper's clients ranged from a Telegraph

The partnership ended in 1982 when Newhouse moved to Monterey and another partner gave up law for the garment business. Cooper was ready for a fresh start when the energetic Arguedas came along.

It had been clear from the beginning that Cris Arguedas would be a standout lawyer. After graduating summa cum laude from Rutgers Law School and working part-time at the Center for Constitutional Rights in Manhattan on cases involving battered women and others seeking legal aid, she was one of just two lawyers ever hired fresh out of law school by the elite San Francisco federal public defender's office, in 1979.

Her first trial was a mail-theft case that pitted her against a seasoned prosecutor twice her age. The jury took just 20 minutes to acquit her client, something rare in federal court. Later, she represented a Palestinian deli owner charged with laundering food stamps, arguing that her client had been entrapped by a comely undercover policewoman. By far the least experienced lawyer in the courtroom, she convinced a conservative judge to acquit him. Arguedas's cross-examination of the policewoman was so skillful, says Barry Portman, who now heads the public defender's office, that for years he used the trial transcript in a course he taught. In 1983, *Time* magazine named Arguedas, then 29, one of the country's five best female lawyers under the age of 35.

When, after two years, Arguedas decided to go into private practice and was weighing several attractive offers, Portman advised her to team up with Cooper. "I told Cris, 'You'll have a real partner with Penny. You complement each other.'"

The two took on many drug-related cases in the early years, while Arguedas used her experience in the federal courts to enlarge their white-collar practice. In 1984, they were joined by Ted Cassman, who, with his superb writing skills, brought further depth to the firm by focusing on appellate cases. The firm grew to five lawyers when Colin Cooper, Penny's nephew, joined in 1989 and Arguedas's former secretary, Laurel Headley, became an attorney after attending law school at night. The two junior lawyers handle many of the smaller matters the firm accepts, such as speeding tickets or arrests for disturbing the peace. "We don't turn away anything because it's too small," says Arguedas.

Several years ago, Arguedas declared in print that she didn't think she could represent a company charged with dumping toxic waste. ("I said that?" she asks.) Her caseload still contains a few clients like the secretary accused of battering her boyfriend, and the Marin County contractor indicted by federal prosecutors in a high-profile North Beach drug case slated for trial early this year. But corporations and industrial polluters, which offer some of the best money in criminal defense work, are the mainstays of her client list.

Last summer, she traveled to an oil rig off the North Slope of Alaska, collecting information to represent a client who works for a major oil company under federal investigation for its environmental practices. As in most white-collar cases, however, this assignment has mostly involved poring over the dozens of binders that line the walls and floor of her office, organizing and mastering the information in the 3 million documents the company has released to authorities.

Arguedas sees no contradiction in her defense of corporate polluters and her early work for those at the bottom of the power scale. "I think white-collar defendants are almost oppressed people in today's criminal justice system. That's probably putting it a little strongly," she adds. "It's always better to have money than not. But once the government starts after a white-collar case, it won't let go."

The last full-scale trial Arguedas and Cooper worked on together was in 1992, when they defended Stockton millionaire developer and sports agent Michael Blatt in the so-called crossbow-murder case. After the death of one of Blatt's business rivals, Laurence Carnegie, the two confessed killers said that Blatt had paid for the job and struck a deal to testify against him. (His first trial ended with a hung jury.) The killing was particularly gruesome, and the evidence, including a \$2,000 check and a tape recording, clearly linked Blatt to the killers.

It was the kind of high-profile, high-stakes, big-money challenge defense lawyers dream of. In an effort to create "reasonable doubt," the two lawyers drew from Alfred Hitchcock's *Strangers on a Train* to argue that while Blatt may have disliked Carnegie, he never wanted him killed; if the murderers had thought so, they were mistaken. Knowing they had to make their client, a slick, ruthless businessman, appear sympathetic to the jury, they had him dress in Cosby-type sweaters and loafers. But their gender may have sent a more important message. Would two women be defending Blatt if he were as monstrous as the prosecution claimed?

Pitted against a macho prosecutor from the old school, Cooper and Arguedas showed they could be just as relentlessly assertive. During the nine-month trial, they refused to let San Joaquin County deputy district attorney Eual Blansett gain any advantage with his blustering tactics; in fact, by constantly challenging and provoking him, they made him look like a bully.

In the end, their strategy succeeded: The jury voted 11 to 1 for acquittal, and the district attorney chose not to try Blatt again. The protracted trial took its toll on his lawyers, leaving them emotionally and physically exhausted, and Cooper and Arguedas have not joined forces on a case since then. But they don't rule it out. It's clear both would love to work another big trial, the kind of media-inflated supernova that keeps its opposing attorneys in the national news.

They did play an important role in the biggest criminal case in decades, albeit entirely behind the scenes. During O.J. Simpson's criminal trial for the murders of his ex-wife, Nicole, and her friend Ronald Goldman, the defense debated whether or not to put Simpson on the witness stand, where his well-honed charm might fail to deter prosecutor Marcia Clark. According to Lawrence Schiller and James Willwerth's *American Tragedy: The Uncensored Story of the Simpson Defense*, the defense DNA expert, Barry Scheck (who had worked for Cooper when he was a law student at Boalt), suggested bringing in Arguedas to test him, saying she was one of the best criminal defense lawyers in the nation.

Arguedas couldn't resist the request ("It was like being asked to pitch in the World Series"), and Cooper reluctantly agreed to join her. The two won't talk about their session with Simpson, citing attorney-client privilege, but say the book's account is accurate.

On the Fourth of July weekend 1995, near the end of the prosecution's presentation of its case, Simpson sat waiting in prison garb and handcuffs in a tiny interview cubicle at the L.A. County jail. Since it wasn't during regular visiting hours, all the other cubicles were empty. Arguedas marched in dressed in one of her serious pantsuits. Simpson turned on the charm, trying to break the tension with a few pleasantries. Arguedas refused to respond, telling him coldly she was there to do the cross-examination and was ready to get started. She remained standing, looking the seated Simpson straight in the eye. Cooper joined her in the cubicle and sat down, while members of Simpson's team milled around.

Arguedas hit Simpson with one searing question after another.

Wasn't he married when he first met Nicole? How did she get those bruises? She fell down? How did she fall down? When Simpson tried to evade her questions by smiling or making a joke, Arguedas repeatedly snapped, "Do you think this is amusing?" as Cooper looked on, stone-faced.

The exchange, which continued for close to four hours, stunned Simpson's lawyers. Shawn Chapman, an attorney in Johnnie Cochran's office, had to leave: "It was too painful to watch." Later she telephoned Cochran to tell him the cross-examination was turning into a debacle. That night Simpson called Chapman and asked, "Who *were* those women?" When Arguedas questioned Simpson for another five hours the following day, Cochran sat in on the proceedings.

Apparently, what he saw was convincing because, as everyone who followed "the trial of the century" knows, Simpson never took the stand. **ES**

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After a mock cross-examination by Arguedas and Cooper, Simpson called one of his lawyers. "Who were those women?"

Avenue acid guru to a man charged with manslaughter when his girlfriend died during a bondage sex act. One of her best-known clients was Gary Popkin, a Hells Angel charged with murdering a drug runner and stealing his cocaine. Cooper won an acquittal, and members of the biker gang flocked to her office. The bikers always paid their hefty legal bills, perhaps (as suggested by a recent book, *Hells Angels: Into the Abyss*, by Yves Lavigne) by cooking and selling big batches of methamphetamine.

Today, top criminal defense lawyers shy away from drug cases. Because the federal government can seize most of a drug defendant's property before trial, there's not much money in them; and harsh mandatory-sentencing laws make the stakes much higher for all concerned. But defending drug busts used to be a mainstay of criminal law; Newhouse estimates that 80 percent of his and Cooper's practice was drug-related.