

The Criminal Defence Lawyer

“Why the criminal law is so unique is that you have the opportunity not just to fight for someone else’s cause, but you are placed in the position of being required to serve someone’s soul. The challenge is that it doesn’t matter who that soul belongs to, it is a soul deserving of your very best effort. It may be that your effort forever changes the course of that person’s life. The challenge is that you are better able to make that difference if you are more learned and you work harder.”

This was the influential advice given to me by senior counsel, Mrs Marie Shaw QC, shortly before commencing a career as a criminal defence lawyer. Working in this area of the law can be exceptionally fulfilling; particularly for those who see value in human rights and social justice principles. The work is best suited for individuals who have a genuine desire to help people within the community; many who are facing extremely difficult periods in their lives.

The role of the defence lawyer comes with the fundamentally important (but often publicly unpopular) responsibility to act in the best interests of clients regardless of the nature of the crime. This responsibility is considerable when individuals are facing criminal allegations and penalties that can have serious life consequences.

The requirement to serve the best interests of clients demands a willingness to work hard. Lawyers can make a difference. Those willing to dedicate long hours to preparation and understanding the applicable law, the evidence and client instructions will be best placed to meet their professional responsibilities and achieve success. In addition, there are many desirable qualities that can assist including strong personal and communication skills, the ability to ‘think on your feet’ and apply common sense to obtain practical resolutions. Advocacy skills are also an important aspect of criminal defence work; individuals considering a career in this field should be willing to appear in court on a regular basis.

The nature of the work is challenging and opportunities arise to act in a diverse range of cases from public disorder and traffic offences through to the most serious of criminal allegations including rape and murder. Rarely is the work dull or monotonous as each case presents its own discrete set of circumstances requiring different considerations.

Understandably, this area of law is not for everyone. Some find the nature of the work too confronting and the associated heavy responsibilities too burdensome. A strong ability to remain professionally objective in challenging situations is required.

Defence lawyers play a valuable role in the criminal justice system. That role is now as important as ever. The South Australian criminal justice system is confronted with many troubling pressures. The Courts, the Office of the DPP, SA Police and the Legal Services Commission all face significant budget restrictions that impact adversely upon the efficiency and effectiveness of the system. Inevitably, a system lacking in funds and resources can lead to risks of unfairness being suffered by accused people (an example: an inadequate criminal investigation by police can result in a failure to gather evidence that could establish the innocence of an accused person). Furthermore, in the current ‘get tough on crime’ era, recent legislative changes to police powers, court procedures and the application of evidence are eroding rights and benefits previously afforded to accused persons. The challenge for defence lawyers is to ensure that those facing criminal allegations continue receive fairness despite difficulties and changes within the system.

It is strongly recommended that, whilst studying, you seek practical experience in the areas of law that interest you. It does not necessarily follow that academic success and a keen interest in a university law subject will lead to a satisfying career in that area (and vice versa). Practising in an area of law can be a very different experience. Like many things in life, it is difficult to truly know whether something is for you until you have experienced it. Furthermore, with reference to the criminal law, those who have obtained practical experience will be better placed for graduate employment opportunities.

I wish you every success in your career path. It is hoped some of you will consider the demanding yet highly rewarding career of a criminal defence lawyer.

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