

What a Good Criminal Defense Lawyer Does

Criminal defense lawyers do much more than simply question witnesses in court. For example, defense lawyers:

- negotiate "deals" with crown prosecutors, often arranging for reduced charges and lesser sentencing (by contrast, crown prosecutors may be uncooperative with self-represented defendants)
- formulate sentencing programs tailored to a client's specific needs, often helping defendants avoid future brushes with the criminal justice system
- help defendants cope with the feelings of fear, embarrassment and reduced self-esteem that criminal charges tend to produce in many people
- are familiar with important legal rules that people representing themselves would find almost impossible to locate on their own, because many criminal law rules are hidden away in court interpretations of federal and state constitutions (for example, understanding what may constitute an "unreasonable search and seizure" often requires familiarity with a vast array of state and federal appellate court opinions)
- are familiar with local court customs and procedures that aren't written down anywhere (for example, a defense lawyer may know which crown prosecutor has the "real" authority to settle a case, and what kinds of arguments are likely to appeal to that crown prosecutor)
- understand the possible "hidden costs" of pleading guilty which a self-represented person might never think about
- spend time on a case that a defendant cannot afford to spend
- gather information from prosecution witnesses, who often fear people accused of crimes and therefore refuse to speak to people representing themselves, and
- hire and manage investigators, who may be able to believably impeach (contradict) prosecution witnesses who embellish or change their stories at trial.

The Gulf Between Paper And Practice

Self-representation is made more difficult by the typical gulf between paper and practice in criminal cases. In books you can find laws that define crimes, fix punishments for their violation and mandate courtroom procedures. Take the time and trouble to read these books, defendants might think, and they'll understand the system. Alas, the practice of criminal law can't be understood by reading books alone. To experienced criminal defense lawyers, the criminal law appears much the same as a droplet of water appears to a biologist under a microscope -- a teeming world with life forms and molecules interacting unpredictably.

For example, "crown prosecutorial discretion" -- the power of crown prosecutors to decide whether to file criminal charges, and what charges to file -- determines much of what actually happens in the criminal courts. Which crown prosecutor has the power to make decisions, and when those decisions are made, can greatly affect the outcome of a case. An act that looks on paper to constitute one specific crime can be recast as a variety of other crimes, some more and others less serious. What in a statute book appears to be a fixed sentence for a particular crime can be negotiated into a variety of alternatives. In other words, the world of criminal law is vast, hidden and shifting, and defendants enter it alone at their peril. At the very least, most self-represented defendants should arrange for a lawyer to be a "legal coach" and consult with their coaches as needed.

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