What does it mean to work as a criminal law attorney

The true life of the criminal lawyer differs dramatically from the romanticized versions often portrayed in film and on television. Both public defenders and prosecutors must process numerous cases on limited budgets through an over-burdened and under-funded criminal justice system. Rarely can a defendant afford to present a case with the assistance of a highly paid "dream team" of attorneys. Prosecutors must often rely on informants and other witnesses with their own extensive records of past convictions, who may agree to testify only in an effort to reduce their own sentences and punishment.

What is Criminal Law?

Criminal trials are inherently dramatic. Movies and television make the most of courtroom drama—from classics that challenge our notion of justice, such as To Kill a Mockingbird, to farces designed solely to entertain, such as the trial portrayed in the last episode of the hit comedy Seinfeld. But trials are only a small part of the picture. Well over 90% of all criminal matters are resolved through plea bargains without trial. Thus, both prosecutors and defense attorneys are constantly involved in high-stakes negotiations that will determine the fate of the defendant.

Criminal lawyers work tirelessly—both inside and outside the courtroom, in advance of trial and, if necessary, during trial—in the zealous representation of their clients. Being a criminal lawyer requires a substantial set of skills beyond being a good trial lawyer; criminal lawyers must be good negotiators, investigators, counselors, and even social workers. Criminal lawyers may be a client’s only listening ear, so they must be prepared to deal with all of the stressful aspects in their client’s life at that moment, not just the accused crime.

Criminal Prosecution

Prosecutors work for the state or federal government in enforcement of federal and state statutes as well as city ordinances that define the criminal code. State prosecutors generally work for the state’s attorneys or
district attorneys of their counties. Prosecution of federal crimes is typically coordinated through the U.S. Attorney’s Office in each federal judicial district.

Departments in these offices are typically organized by the type of crimes they prosecute. Felonies such as murder, robbery, rape, or vehicular homicide, which are crimes that can result in prison terms of more than one year, are typically handled by a group of felony prosecutors. Misdemeanors, or crimes which can include a fine or jail sentence of up to one year, are typically handled by a different group of prosecutors. Enforcement of city ordinances, including traffic offenses, criminal trespass to property, shoplifting, and parking offenses are often handled by a different group of prosecutors. This allows the various cases to proceed in an orderly manner before judges and other court officials, such as magistrates, who are familiar with the statutory requirements and equipped to handle issues including pre-trial detention (bail), evidentiary standards (probable cause for arrest, detention, or searches), and sentencing. Other divisions of state and county prosecutors’ offices handle matters such as consumer fraud and environmental standards enforcement. Juveniles are processed through an entirely separate system that emphasizes treatment and rehabilitation rather than punishment.

Prosecutors at both state and federal levels are given tremendous discretion in determining how to proceed against a particular defendant. The prosecutor determines whether to proceed with charges based on factors including the amount and type of evidence, the nature of the crime and its victim, the existence of a prior criminal record on the part of the defendant, and the effect of the crime on the community (for example, vehicular homicide caused by the defendant’s drunk driving or crimes in which the defendant acted against the victim because of his or her race, sexual orientation, or religion). Prosecutors may also seek to charge through indictment, which can involve presenting witnesses and evidence to a grand jury for its consideration and evaluation.

Criminal Defense

Criminal defense attorneys may work for the federal, state, or local government or for private law firms. The Constitution provides that anyone accused of a crime, even the indigent, has the right to be defended by an attorney; thus states, municipalities, and the federal government maintain public defenders’ offices which provide defense counsel to anyone who needs it. These offices are typically organized by the type of alleged crime— for example, traffic crimes, juvenile crimes, misdemeanors, felonies, and civil crimes (abuse, neglect, dependency, etc.).

Criminal defendants may be accused of any number of crimes or complaints. Retail theft, assault, possession of drug paraphernalia, criminal trespass to real property, or even telephone harassment are just a few of the criminal misdemeanor charges a criminal attorney defends. Numerous traffic violations include driving with a suspended or revoked driver’s license, driving without insurance, or driving while under the influence of alcohol. Criminal defense attorneys also assist clients accused of various felony crimes, including possession of a controlled substance, carjacking, kidnapping, and first degree murder.

Criminal defense attorneys serve their client’s best interest and have no requirement to present evidence or call witnesses in defense of their case; it is the prosecutor’s responsibility, or burden, to prove the defendant guilty beyond a reasonable doubt. This does not mean that the defense attorney has nothing to do on the case. He or she must investigate the scene of the crime, talk to witnesses to establish what may have happened, and research case law to construct the defense and to gain insight on possible arguments to be made by the prosecution. Defense attorneys are often faced with factual situations that are extremely unfavorable to their clients. They work closely with their clients when preparing for trial and generally attempt to resolve the case before trial by seeking dismissal of the case or negotiating a plea agreement with the prosecutors.

The government also uses criminal sanctions to enforce civil laws— whether tax laws, securities laws, banking laws, antitrust laws, or environmental laws. “White collar” criminal defense lawyers represent individuals and businesses that have allegedly violated such statutory provisions. Attorneys specializing in white collar defense defend their clients in civil and criminal investigations and against both civil and criminal charges. These cases may be complicated by additional civil lawsuits brought by the alleged victims of the crime or crimes. White collar defense lawyers are experts in handling the interplay between these civil and criminal investigations and charges.

Types of Cases Handled by Criminal Lawyers

Examples of the types of crimes handled by prosecutors, criminal defense attorneys, and public defenders include:
Crimes Against People

Crimes against people include rape, murder, child abuse, spousal abuse, hate crimes, and assault. Prosecutors, public defenders, and criminal defense attorneys work with experts in the forensics field on such issues as DNA analysis and ballistics analysis, as well as with the coroner or medical examiner. Generally crimes against people are handled at the state level, but they may be prosecuted federally if the crimes are committed against federal officials, such as the murder of a federal agent, or if they involve interstate transport, such as kidnapping or the smuggling of illegal firearms used in the commission of a crime.

Drug Crimes

The federal government has made the war against drugs a priority, with stiff penalties for those defendants proved guilty of importing, selling, and distributing drugs. An ever-increasing number of drug cases are prosecuted, and drug cases therefore account for a significant percentage of the cases handled by public defenders and private criminal defense attorneys. Drug cases include those brought against neighborhood dealers as well as those brought against organizations involved in large-scale drug trafficking and money laundering (the transfer and concealment of large amounts of cash generated through sales of drugs through various bank accounts).

Organized Crime

Organized crime is often glamorized by the movies and television, with few apparent victims other than those who are associated with the crime families. However, organized crime victimizes citizens at large because of its far-reaching economic consequences. When organized crime infiltrates legitimate businesses or labor unions by demanding payments or taking over the business, costs are driven up, and the effect is felt by individual consumers and government entities. White collar criminal defendants, who frequently fall into this category, often have the financial resources to hire private criminal defense attorneys who work in the white collar criminal defense departments in large law firms or who work in small boutique practices specializing in white collar defense work.

Economic Crimes

In an unceasing quest to get something for nothing, defendants commit a wide variety of economic crimes, including counterfeiting, using false documents to obtain loans, and participating in credit card fraud and other types of commercial scams. Defendants may also commit tax offenses, whether failing to file tax returns or filing false returns. Many of the defendants in these cases hire private criminal defense attorneys with experiences in such fraud and tax evasion cases to handle their defense.

Public Corruption

When public officials such as police officers or elected officials engage in wrongdoings (for example, taking bribes or extorting money or services), prosecutors bring charges against them. Such investigations, such as the "Silver Shovel" investigation that resulted in the sentencing of several government officials in Chicago, are often lengthy and complex. They require a sophisticated coordination of efforts between prosecutors and investigators, and highly specialized defense efforts on behalf of criminal defense attorneys.

Life as a Criminal Lawyer

Where do criminal lawyers work?

Many prosecutors work for state government. Prosecutors who work for the state are generally employed by a state attorney’s office or a county district attorney’s (D.A.’s) office. Each county has one state attorney or one district attorney and some number of assistant state or district attorneys. Highly populated areas, such as Cook County, Illinois (home to Chicago and a number of densely populated suburbs), may have hundreds of assistant state’s attorneys, while counties with smaller populations have smaller prosecutor’s offices.

Many of the prosecutors who work for the federal government are employed by the U.S. Attorneys for the various federal judicial districts throughout the country, which are part of the Department of Justice. The U.S. military also employs attorneys who are prosecutors, as does the U.S. Coast Guard.

Public defenders also work for the state or federal government. Public defenders who work for the state are employed by a county public defender’s office. Each county has a public defender, and the number of
assistant public defenders employed by the county depends on the county’s population. The public
defender fills the Constitutional requirement of providing representation by counsel for all. Counties
sometimes hire private criminal defense attorneys to assist defendants when the public defenders are
overburdened by their case loads.

Private criminal defense attorneys generally work in law firms. Some work in small firms or on their own,
but others are associated with mid-size and large firms. Before becoming private defense attorneys, they
often gain experience in criminal litigation by working as public defenders or prosecutors. White collar
criminal defense attorneys often work in large law firms, where the complex cases on which they work,
unique in their mix of criminal and civil issues, can be supported by teams of attorneys and extensive
support staff.

Who are their clients and what types of cases do they work on?

Prosecutor Gerry Judson, Deputy District Attorney in the Los Angeles County District Attorney’s Office,
explains, "As a representative of the people, [prosecutors] don’t have clients in the normal sense of the
word. We serve the community at large by ensuring that laws are enforced and justice is served.
Consequently, we represent the entire county of Los Angeles. Victims of crimes often look at us as their
lawyers. In a certain respect, we are the only advocates they have in the criminal justice system. We try to
ensure that their interests are protected by getting convictions and seeing that the appropriate sentence is
imposed." The Los Angeles D.A.’s Office handles a wide variety of cases. "We prosecute all types of crimes," says Bill, "from crimes as simple as driving without a valid driver’s license to crimes as serious as murder.
The Los Angeles District Attorney’s Office has a number of specialized prosecution units, such as the hard
core gang unit, the major fraud unit, the environmental crimes unit, the major narcotics unit, and the
domestic violence unit, just to name a few. If you have a special interest in a certain area of criminal
prosecution, once you’ve obtained experience prosecuting cases, you can apply to one of our many special
units. There’s something for everyone."

Alicia Morgan is the lead criminal prosecutor at the Office of the Champaign County State’s Attorney in
Urbana, Illinois, where she is one of 13 criminal prosecutors. "Though my clients are technically the people
of the state of Illinois, my clients are truly those who are victims of violent crimes. I work on felony cases,
cases involving crimes such as first degree murder, armed robbery, and rape. Our office also handles felony
cases against property, such as burglary, and crimes such as forgery. Among the most rewarding cases to
work on, but the most emotionally taxing, are child abuse and neglect cases." She adds, "Less experienced
attorneys in the office handle misdemeanor cases, which involve offenses that are punishable for up to one
year in jail. New attorneys generally handle traffic cases."

Fran Macey is a federal prosecutor at the Office of the U.S. Attorney in Minneapolis, Minnesota. "We are
ultimately public servants," explains Fran, an Assistant U.S. Attorney. "We have client agencies we work
with, like the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, and Firearms (ATF), the
U.S. Secret Service, the U.S. Department of Agriculture (USDA), and the Office of the Inspector General of
the U.S. Postal Service. These federal agencies engage in criminal investigations. They investigate crimes and
then bring the results of the investigation to us, to prosecute the case or to give them further direction in the
investigation." Fran says that she works on a wide variety of criminal cases. "Sometimes we have joint
jurisdiction over crimes such as drug crimes, which may be prosecuted by a county prosecutor’s office. We
tend to take the larger, more complex cases with distinct federal interests. These include cases such as bank
robberies; crimes against women in which the defendant has crossed state lines; gun cases in which a
firearm is possessed by a felon or in which the defendant possesses a firearm that is banned; threats against
the President; possession of stolen mail; bank fraud, such as check kiting schemes and fraudulent efforts to
obtain government loans; health care fraud, such as physicians or medical equipment suppliers claiming
that they have provided a service or supplies that were never provided; and counterfeiting." Fran notes that
the investigations she works on often reveal surprising schemes. Recently, she encountered a number of
counterfeiting cases involving technically sophisticated high school and college students who attempted to
manufacture currency with their state-of-the-art computers and printers.

Those defendants who cannot afford a private defense attorney are assigned the services of a public
defender. Denise Trousdale is an Assistant Public Defender for Cook County’s Sixth Municipal District in
Markham, Illinois, just west of Chicago. "I represent indigent clients of all ages," she says. "I work with
juveniles, young adults, middle-aged people, and even senior citizens." Trousdale explains that those
defendants who can’t afford a private attorney are asked to complete an affidavit (sworn statement) of
assets and liabilities. Once a judge reviews the affidavit and determines that they are indigent, the defendant
is assigned a public defender. Trousdale handles misdemeanor cases and some felony cases. "In the
misdemeanor cases, the client may be charged with possession of marijuana, criminal damage to property,
possession of alcohol by a minor, or disorderly conduct. My felony cases include armed robbery, home
invasion, credit card or check fraud, and cocaine possession."

Jack Stevens works as a private defense attorney as well as a civil litigation attorney at a 25-person firm in Champaign, Illinois. Half of Mark’s practice is criminal defense; the other half of his practice is civil litigation. "Many of my criminal defense clients come to me via referrals from the companies I represent in my civil litigation practice," he explains. "Before entering private practice, I worked as a prosecutor in the Champaign County State’s Attorney’s Office. Some of the people I previously prosecuted have come to me to represent them. Much of my clientele comes from word of mouth." Mark represents defendants charged with a range of crimes—from murder to speeding. "Many of my cases are felonies," says Mark. "Some of the cases involve the alleged burglary of autos or businesses. I get a fair number of clients who are university students who have been drinking and their subsequent behavior results in their being charged with a felony or misdemeanor. Champaign County aggressively prosecutes cases in which a defendant has been charged with driving under the influence of drugs or alcohol."

Attorney Robert Rovenger handles white collar cases at Richards & Roth, a large law firm in Los Angeles. Robert comments that it’s "almost impossible" to describe his wide range of clients. "We represent individuals, large corporations, small corporations, partnerships, and other business entities. This is fairly typical in the white collar field, because a criminal investigation into a corporation will necessarily also involve the criminal investigation into the responsible officers, directors, and employees of the organization." Robert explains how these very complex cases work. "A case typically begins with a subpoena from a grand jury, the execution of a search warrant, or interview of the employees of a company by federal investigators. This is generally the first indication that a company or individual has that they are being investigated for criminal activity. The white collar attorney generally tries to make contact with the prosecutor to determine whether the client is under investigation personally for criminal activity or is merely regarded as the witness of the possible criminal activity of another. The attorney then attempts to do a factual investigation and to develop the paper trail necessary to determine whether any laws were broken. In federal cases, because of the influence of the federal sentencing guidelines, it is also generally important to begin determining what factors will affect the length of the client’s possible sentence if convicted."

At that point, Robert explains, negotiations generally begin. "Once the attorney feels comfortable with the facts, he or she will often meet with the prosecutor to seek a declination of criminal prosecution or a favorable plea agreement. If those negotiations do not appear to be likely to resolve the case, the attorney will generally attempt to reach some sort of agreement with regard to pre-trial release and request that the client be allowed to surrender, rather than be arrested, in the event that he or she is charged with a crime. If the client is charged, the case will proceed very much like civil litigation. The primary exception is that discovery is very limited in criminal cases. Thus a premium is placed on the actual investigation rather than the discovery tactics employed in civil litigation. The other major difference from civil litigation is that criminal cases proceed much more quickly. Even a very complex case can go from indictment to trial within a single year."

What daily activities are involved in criminal law practice?

"Being a prosecutor is never boring. Every day is different," says Assistant State’s Attorney Fran Macey. "You run from crisis to crisis: it’s as if you have to keep your finger in the dam all time. You’re in court every day. Every day new cases come in. And every day you’re handling guilty pleas and motion hearings."

Elizabeth explains that she’s involved in her felony cases right from the start and all the way through trial. "One day a week I review police reports and make decisions about what crimes have been committed, and I file charges against the defendants accordingly." In Champaign County criminal jury trials are convened every two weeks. "Every two weeks, I know I’ll be on trial for a two-week period. Few of the trials last more than two or three days. During the two weeks between trial periods, I spend as much time as possible preparing for trial and making sure all the evidence is ready. When the two-week jury term convenes, as many as six or seven cases are set for trial each day, so you need to be well prepared." Many cases settle just before trial, but Elizabeth says she can count on having at least two felony jury trials a month.

Los Angeles County prosecutor Gerry Judson agrees that life as a prosecutor is hectic and unpredictable. "I don’t spend much time in my office," he admits. "My true office is the courtroom." Bill notes that each day offers new challenges. "We arraign new defendants, discuss plea agreements (case settlements), handle search and seizure and other evidentiary hearings, and deal with probation violations. In addition to these activities, we are either preparing for trial or actually in trial," he says.

As an Assistant U.S. Attorney, Fran Macey reports that she is involved in a variety of tasks. She especially enjoys court hearings and trials, but her job involves far more than courtroom work. For example, she says, "I meet with federal agents to discuss investigations and offer advice. Because cases often involve complex legal and procedural issues, they require extensive brief writing at the district, magistrate, and appellate
Public defenders are often assigned to a criminal courtroom, where they work in a team with a particular prosecutor and an assigned judge. "When I arrive at work, I immediately report to my courtroom," says Denise Trousdale, Cook County Public Defender. "On any given day, as many as 50 cases may be assigned to the courtroom for discovery, negotiations, or trial. Most of the day is spent assisting my clients in negotiations with the prosecutor. A majority of my cases—about 90%—are resolved through negotiated pleas or agreements. I spend about five days per month in trial."

Private defense attorney Jack Stevens says that he spends much of his time reviewing discovery and doing independent investigations for his clients. "I carefully review the police reports and determine what independent investigation needs to be done. I interview the client to get the client’s account of what transpired. I also prepare motions and petitions on a regular basis—for example, motions to suppress evidence at trial. I also have constant and regular contact with the state’s attorneys’ office to negotiate plea agreements. The conferences with the state’s attorneys tend to be very informal—sometimes they are by appointment and sometimes I just talk to the state’s attorney as he or she is walking into the courthouse in the morning." On the day we interviewed Mark, he had an appointment to talk to one of the state’s attorneys about 16 cases scheduled for a docket call on a single date three weeks later. Mark, whose defense clients make up half of his case load, says, "About 96% of my cases settle," but he tries about one criminal case per year. Mark says that it’s not uncommon for private criminal defense attorneys in his county to try anywhere from six to 12 cases per year.

White collar defense work requires that attorneys spend time developing legal strategies to assist their clients in complex, high-stakes cases. Explains Robert Humphreys, "Most of my day is spent assembling and investigating the facts of the case and in the library developing the legal issues that will affect the client’s criminal liability and length of sentence. It is generally the objective of the white collar criminal practitioner to avoid going to court at all and to settle the case prior to the filing of the criminal charges. Thus, far more time is spent in negotiations with the prosecutor’s offices than is spent arguing in court. There is a fair amount of motion activity in criminal cases after charges are filed, however, and criminal cases are far more likely than civil cases to actually go to trial."

What do criminal lawyers find rewarding about their practice?

The prosecutors we talked to said that they found their role as public servants particularly rewarding. "I always believe that I’m on the right side of things," says Fran Macey. "Even when I lose a trial, I feel good about the role I’ve played in the case. If I win, I feel that justice was served. I never have to wrestle with my conscience. It’s satisfying when people who have committed crimes against others are convicted and sent to prison. I know I stand for something, for an important principle—I uphold the laws of our state."

Los Angeles County prosecutor Gerry Judson agrees. "The nature of the job of being a deputy district attorney is, in itself, rewarding. It may sound corny, but knowing that you are an integral part of the search for truth and justice is what keeps all of us going. You have the ability to take violent predators off the street. You are able to show victims and their families that the system will work for them and that they are not forgotten. You have the responsibility to ensure that no individual is wrongly accused. You are doing something to help better the community."

Prosecutors tend to love their courtroom work. "There’s nothing more rewarding than being in the courtroom every day," says Gerry Judson. "Everyone who comes to this office wants to be a trial attorney. For me, there couldn’t be a better job in the world!" Fran Macey is equally enthusiastic about her work in the courtroom. "Both going to court and being in trial are fun," she says. "Many of my evidentiary hearings are actually bench trials [trials heard before a judge rather than a jury], and I have the opportunity to use my oral advocacy skills. I also really enjoy the challenge of arguing cases before the Eighth Circuit Court of Appeals. It’s very exciting. I generally have the chance to do two or three Eighth Circuit appellate arguments per year."

As an assistant U.S. attorney, Fran has the opportunity to do extensive legal research and write briefs for her own cases. "Working for the U.S. Attorney’s Office gives you the chance to work with victims and law enforcement officials, so you don’t miss out on the human dynamic of practicing law. But you also engage
in the more academic legal experiences of law practice—research and writing—as well. And it's that combination that makes my job especially rewarding."

Fran also enjoys working on a team with her colleagues. "I like my colleagues. We have an open door policy; we get to know each other well. They're extremely talented and very competent. I enjoy my work with a varied group of attorneys, from former JAG attorneys to former county prosecutors to attorneys formerly in private practice. I also work with federal investigators, developing case strategies; we think about the type of evidence we want to develop for a trial, talk through admissibility of evidence issues, debate what approach is most persuasive to a jury, and brainstorm about what we think we need to present a very good case. Then we concentrate on lending that perspective to the entire investigation. It's truly a team approach. I also work with victim witness coordinators who work with the victims of the crimes as well as the witnesses whose testimony we will use during the course of the trial or the hearing."

As a public defender, Denise Trousdale finds her work with her indigent clients immensely rewarding. "I provide people who can't afford a private lawyer the best defense possible. Just being a good defense attorney is a reward in itself," she says. Trousdale also says that her love of people makes being a public defender the perfect job for her. "I love people. I love the fact that I have a relationship with the other people in the courtroom, that we're working together to make the system work." Trousdale says that she enjoys the relationships she develops with her clients. "There's a very important social work aspect of my job," she says. "I try to help those struggling with alcohol and drugs find treatment programs. I try to help my clients find employment. And with juvenile offenders, I try to be a role model. I tell my young clients that they can do anything. They often come to visit me months or years later, to let me know how they're doing. 'Mrs. Odom,' they'll tell me proudly, 'I'm going to school now!' And they send me their graduation announcements and graduation pictures. My office is filled with pictures my young clients have sent me. Just looking at those faces, knowing those kids have moved on with their lives, is incredibly rewarding."

Most criminal defense attorneys delight in being at trial. "It's rewarding to go to trial and win," says private defense attorney Mark Lipton. Denise Trousdale is extremely enthusiastic about her trial work. "I love being on trial," she says. "As a defense attorney, you get to be very creative. You brainstorm with your colleagues and come up with ideas and strategies for defense of your client. Jury trials just give me a rush," she confides.

The Training and Skills Important to Criminal Law

How do people enter the field of criminal law?

Some attorneys become convinced that they want to be criminal lawyers at an early age. Public defender Denise Trousdale says that she knew she wanted to be a criminal defense attorney from the time she was 12 years old. "I come from a single-parent family. My mom raised six of us, including my two brothers, who had juvenile delinquency problems. When I was 12, I met the public defender who was representing one of my brothers. He was great! My mother explained to me what a public defender was—how they represented people who couldn’t afford private attorneys and how they were paid for through our taxes. I made up my mind right then that I wanted to be a public defender, and I never changed my mind. I always tell my young clients that, in spite of all the obstacles in my way, I pursued my dream career, and I encourage them to do the same."

Other attorneys who pursue the field are inspired by experiences as student interns in state's attorneys' offices or public defender's offices. "I worked at the state's attorney's office as a student intern," says prosecutor Fran Macey. "That did it for me—I was hooked. I couldn't ever imagine wanting to practice any other type of law." As an intern, Elizabeth tried her first cases under the supervision of a licensed attorney, which is permitted in some states. "The internship experience was invaluable. As a third year student, I handled traffic trials, including DUI cases. I was working under the supervision of the traffic prosecutor. When I was hired after graduation, I became the traffic prosecutor."

Some law students find that working in a prosecutor's office offers them an opportunity to engage in public service while gaining trial experience. Such is the case with Gerry Judson, who says, "Two things influenced my becoming a deputy district attorney. First of all, I wanted to give back to the community. I wanted a life in public service. Secondly, I wanted to be a trial attorney. Not just a litigator, but a real trial attorney. I knew that only in the criminal justice system could a young attorney get a lot of trial experience." Bill adds that once he knew he wanted to work as a criminal attorney, he faced the decision of whether to work as a prosecutor or as a defense attorney. "After speaking to several prosecutors, I learned that as a prosecutor, I could be an advocate for victims, individuals whose rights had truly been violated by other individuals. I also learned that as a prosecutor, my main role was to seek justice. Although I continue to have great respect for what defense attorneys do, I knew that a prosecutor was what I wanted to be, and I have never regretted..."
that decision."

Many attorneys who pursue this field are inspired by criminal law studies in law school. "I found that the cases in my criminal law classes were the only ones that were actually interesting to read," confides Robert Humphreys.

Assistant U.S. Attorney Fran Macey worked as a judicial law clerk after graduation. "I clerked for Judge Damon Keith of the Sixth Circuit Court of Appeals," explains Fran. "While I was clerking, I began to think about becoming an Assistant U.S. Attorney. I watched the Assistant U.S. Attorneys in action, and I was impressed. I saw that they had intellectually challenging jobs that allowed them to research and write about interesting legal and procedural issues. I knew they had frequent opportunities to use their oral advocacy skills. And I liked the idea of being in public service. I also heard about the collegial atmosphere in the U.S. Attorney's Office—and that has proven to be true." Fran worked as a litigation associate at a large firm for several years before pursuing a job at the U.S. Attorney's office.

It's common for private defense attorneys such as Jack Stevens to begin their careers as prosecutors. Mark worked as a prosecutor for seven years before becoming a private defense attorney. "If you want to do litigation of any kind, working in a state's attorney's office is one of the best training grounds. It's the best way to get into criminal defense work and a good way to get into civil litigation." As a prosecutor, says Mark, "I liked being the good guy and wearing the white hat. But shorty after I decided to leave the state's attorney's office, I was assigned a death penalty murder case that went to trial. That experience provoked my liberal sensibilities, and I shifted into the role of looking out for individual rights. My client in the murder case, rather than being sentenced to death, was sentenced to 80 years, of which he will have to serve 40. That doesn't minimize the fact that 40 years is a long time, but it's much better than the death penalty. That case was a real turning point for me."

What skills are most important to criminal lawyers?

- Criminal law attorneys need to have excellent communication skills. "The ability to effectively communicate with others is without question the most important skill any trial attorney must possess," asserts Gerry Judson. "Some people are naturally blessed with this skill. I, however, was not," Bill admits. "So before law school, I worked hard to develop my public speaking skills. In college I took a number of speech communication classes in which I studied the great orators in history. In law school I participated in moot court and trial advocacy classes. As a law clerk and as a young prosecutor, I carefully observed many experienced and successful attorneys. All of these experiences have helped me to become an effective and persuasive communicator."
- The ability to read and analyze vast quantities of information is a skill especially valuable to prosecutors. "I know that many prosecutors would argue that public speaking skills and writing skills are the skills most important to the field. But I believe that careful reading is the most important skill a prosecutor can have," says Fran Macey. "As prosecutors, we handle a staggering volume of work. We review awesome amounts of written information. We're constantly taking in many versions of the same story from different sources—from police records, from witnesses, from investigators. We're also reviewing statutes, case law, and jury instructions. It's a challenge to get through all the information, organize it, analyze it, and decide what crimes to charge. And your decision to charge a defendant with a particular crime or crimes is dependent on what you glean from your reading and analysis of the information."
- Because an overwhelming percentage of criminal cases settle before trial, criminal attorneys must have sophisticated negotiation skills. Says white collar defense attorney Robert Humphreys, "The attorney's ability to get the best result for his or her client generally depends on his or her ability to either negotiate with the prosecutor or to persuade the court or jury." Federal prosecutor Fran Macey says, "Negotiation skills are critical. We're often seeking to settle cases. It's important to be able to assess the strength of your case and figure out your goals for settlement as well as how to achieve those goals."
- Criminal attorneys need strong analytical skills. "You must be able to perform legal analysis and think through investigative strategies and trial strategies," says Fran Wright. "You have to think carefully about the evidence you'll present at trial," adds Fran Macey. "Contrary to conventional wisdom, closing arguments aren't the determining factor in a jury trial," she says. "Juries listen to the evidence. And you have to analyze your case carefully to know how to best present the evidence. You're working from the very beginning of the case, from the time the defendant is charged, to present an effective case. This takes strong legal analysis." As a criminal defense attorney, Jack Stevens must analyze his client's options and share that analysis with his clients. "My clients generally say, 'I'll do whatever you tell me to do.' And I have to explain to them, 'That's not how it works. You have to understand that whatever decision you make is your decision. But I can tell you about your options and give you my analysis of the best course of action.'"
- The ability to build relationships is critical to criminal attorneys. Prosecutors and defense attorneys must work to develop a rapport with their clients, with juries, and with opposing counsel. Public defenders and state prosecutors are often assigned to courtrooms where they work with the same team day in and day out.
"The prosecutor assigned to my courtroom and I are able to get a lot done, because we understand the judge and we understand each other," says Denise Trousdale. Jack Stevens adds, "Establishing a rapport with clients is something that comes naturally for me. People tell me that even my voicemail message is soothing. But maybe it's when my clients meet me that they know I'm approachable. I'm 52 years old, but I wear my long hair in a ponytail and I sport an earring." Mark confides. A few minutes spent chatting with Mark make it obvious that meeting new people is one of his favorite parts of the job.

The prosecutors we talked to emphasized the importance of management skills. "You need to be very self-motivated," says Fran Wright. "You need to work well with others, but you also need to encourage others in terms of management—you're managing the investigators, giving them positive feedback, and explaining why you need the information you're asking them to get—why the information is useful or admissible in the case. You're really leading a team and working on building team spirit."

Good organizational skills are helpful to all litigation attorneys, particularly those specializing in criminal litigation. "In a way, building a case is all about information processing," says prosecutor Fran Macey. "As a prosecutor, you're working with a high volume of cases. In order to roll with the flow of your wildly hectic days, you have to be very organized—organized in terms of your thinking and organized in terms of your case files."

Most criminal attorneys we talked to mentioned the importance of having empathy for others—whether victims or criminal defendants. "As a prosecutor, you deal with so many types of people, you must be able to relate to individuals from all walks of life. You have to understand how and why different people react differently in certain situations," says Gerry Judson. "You must have sensitivity to the victims of a crime so that in the investigation and prosecution of the crime, they are not further victimized," says Fran Wright, adding, "It's important to present a human face to victims and families of victims. Part of my job is encouraging citizens' confidence in our justice system. Developing that level of trust is extremely important to me." Denise Trousdale says, "As a public defender, you're representing the underdog. You have to have strong empathy for your client as well as a strong constitution; you have to be willing to be the underdog."

Counseling and social work skills are critically important skills to the public defender. "I'm truly looking out for the client's legal interests, but you can't do that without considering the whole person," explains Denise Trousdale. "I spend a great deal of time soothing and reassuring my clients. I help them navigate the justice system, but I also help them seek drug treatment, employment opportunities, and educational opportunities. When I have clients looking for work, I've been known to copy down phone numbers from help wanted signs I spot on my commute to the courthouse! I make every effort to get clients to focus on the future." Trousdale points out that another important skill in working with her clients is patience. "My clients sometimes tell me five different versions of the same story. I try to listen to each version as if it's the first time." Trousdale has four children, and she says that she finds herself calling upon her mothering skills to encourage clients to be patient while they await their appearance in court. "When clients have to wait for a couple hours for their case to be called, they sometimes believe that it's because they have a public defender rather than a private defense attorney. I have to reassure them that this isn't the case, and get them to adjust their attitudes. If they're angry when they are in front of the judge, their attitude can adversely affect their case."

Common sense and good judgment are helpful to any attorney, particularly the criminal law attorney. "The best white collar practitioners have a combination of good judgment and good communication skills. The white collar defense attorney is often faced with difficult decisions," explains Robert Humphreys. "For example, when the prosecutor offers a plea bargain, the attorney must decide whether to advise the client to go to trial to reject the offer, taking the risk that the client will spend a longer time in prison; or to concede criminal responsibility without a fight in exchange for leniency. This is an extremely difficult decision and often the advice must be given before all the facts are available. It is the lawyer's judgment and common sense that allows him to anticipate where the facts will likely lead and how they would appear to a neutral fact-finder when presented in trial."

A certain amount of "street smarts" can be useful to both prosecutors and criminal defense attorneys. Denise Trousdale explains, "Sometimes new street scams evolve, and judges and other attorneys aren't aware of the scams. For example, a recent scam is the 'hype rental.' In this situation, a person rents their vehicle out in order to get drug money, then calls the police to report that their car has been stolen. The person who rented the car is then arrested for auto theft. When they tell the judge that they 'rented' the car, the judge thinks that the defendant is playing dumb. 'I find the defendant's story totally incredulous,' said one judge I worked with. 'Who could possibly think that they were renting a car for $25 in cash?' You have to know the practices of the street. You have to know the crimes occurring in the neighborhoods in which your clients live. And you have to talk to your clients and your neighborhood contacts to know that such crimes actually do occur."

Criminal attorneys also need a sincere commitment to their work and a good sense of humor. "You have to be passionate, but sincere," says one attorney. "Your opposing counsel must know that you are an honest person. They must know that you can be trusted to keep your word," she says. Because criminal attorneys are often dealing with cases where the stakes are high, a sense of humor is important for keeping it all in perspective. "You're under a lot of pressure," says Elizabeth. "You have to be able to take a step back and find humor in your day. And, most importantly, you have to be able to laugh at yourself."
What classes and law school experiences do criminal lawyers recommend?

- The lawyers we interviewed for this chapter recommend taking criminal law, criminal procedure, and evidence classes in law school. Because criminal law is a field that involves extensive negotiations, they also recommended a negotiations class.
- If you are interested in white collar crime, take business-related law school courses, as well. "Because white collar crime involves business issues, a good understanding of corporations, securities, tax, and administrative procedure is very helpful. And because white collar criminal litigation often gives rise to parallel civil litigation, the white collar practitioner should also be very familiar with civil procedure," advises Robert Humphreys.
- The criminal lawyer we talked to strongly recommend taking as many trial advocacy classes as possible. "Trial advocacy was the most helpful class I took in law school," says Fran Macey. Denise Trousdale took three trial advocacy classes in law school. "They were excellent preparation for my work," she says. Students interested in appellate advocacy or seeking to develop their oral advocacy skills should also consider participating in their law school's moot court competition, in which students draft an appellate brief and then present oral arguments before a team of judges. The judges are often state court judges and experienced practitioners. Allicia Morgan says, "Moot court competition requires you to think on your feet and respond to judges' extemporaneous questions. This helps you learn to be composed even under the most intense questioning."
- Improve your writing skills by taking legal research and writing classes and participating in law review or other journals and writing competitions. Fran Wright, who was editor of one of her school's law journals, highly recommends the law review experience. If you're considering work as a federal prosecutor or as an appellate attorney, take advanced writing classes and seminars that will help sharpen your writing skills.
- Undergraduate courses in speech communications, social work, and psychology can be helpful. As Gerry Judson mentioned earlier, speech classes provide an excellent way to learn about persuasive theory and to practice persuasive strategy. Denise Trousdale advises students interested in working as public defenders to consider classes in social work and psychology. "The classes help you develop the practical skills you need to counsel clients," she says. She also advises students who have no personal experience with the criminal justice system to take a basic course in criminal justice administration. "Such a course helps you begin to understand the complex issues underlying the relationship between the urban community and the justice system."
- Gain practical experience in criminal law settings. Seek out internships in state's attorney's offices, public defender's offices, and U.S. Attorney's offices, or consider participating in your law school's criminal law clinic. "The most helpful way to prepare to work as a prosecutor is by working as an intern in a prosecutor's office," says Fran Macey. "Working as an intern allows you to be an apprentice. There's no better way to learn a job than to spend time watching someone who's really good at it." Explains Denise Trousdale, "Clinical experience gives you the chance to work with real clients on real cases. You also have the opportunity to work under the supervision of a clinical professor who is both an outstanding professor and an outstanding clinician." Jack Stevens worked in his law school's Legal Assistance Clinic. "Clinical experience allows you to learn about the attorney-client relationship," he says. "No other law school classes deal with that issue." Adds Robert Humphreys, "Law students who are interested in white collar crime should get involved in clinics and other activities that offer hands-on litigation experience."
- If you hope to become a federal prosecutor, consider working as a federal judicial extern while a law student or a federal judicial law clerk upon graduation. Federal judges hire law students to work as law clerks for one to two years after graduation. A good stepping stone for learning about judicial clerkships and for obtaining one upon graduation is working as a judicial extern during law school. As judicial externs, students work closely with a federal judge's law clerks, gaining excellent writing experience as well as an opportunity to learn about the merits of seeking a judicial clerkship position. Fran Macey is generous in her praise for judicial clerkships. "A judicial clerkship gives you a view of the legal system you'll never see again. You get to learn firsthand what's important to judges in terms of written and oral presentations. You get practical, hands-on experience in civil and criminal procedure. And you develop personal relationships with seasoned jurists—not just the judge you're working for but other judges as well—which is extremely valuable in terms of mentoring opportunities. You also have the opportunity to improve your legal research and writing skills. It's an outstanding credential that all legal professionals value." Fran still maintains a close relationship with the judge for whom she clerked after law school.
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