

CHOOSING THE RIGHT LAWYER



A COMPREHENSIVE GUIDE TO
FINDING THE BEST CRIMINAL LAWYER
TO FIGHT YOUR CRIMINAL CHARGES

R I C H A R D A U G E R

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Introduction

Why I wrote this book

Being charged with a criminal offence in Ontario can be a stressful, traumatic, and difficult experience. Those dealing with charges are often anxious, scared and unsure about how to move forward. There is so much to deal with for an accused person that doing the right research and asking the right questions to find the right criminal lawyer can be challenging. But remember, the decision about the lawyer you choose to hire might be the biggest decision of your life.

I hope that this book can be that starting point for any member of the public who has just been charged with a criminal offence, and who wants to start looking for the best possible lawyer to handle his or her case.

After I win a case, I often hear the same thing from clients: "I wish I had contacted you about my case sooner, rather than hiring a different lawyer who didn't do the best possible job representing me." Too often, people facing charges rush into hiring the wrong lawyer. In this book, you will find different strategies that will help you make the right decision at the beginning of your case. This book will teach you how to avoid the pitfalls people often encounter when searching for a lawyer. Inside these pages, you will learn how to start your search, how to evaluate the information you get and how to take the right steps to find the lawyer who is right for you and your criminal case.

This book will take you through the things that matter most to people accused of a criminal offence. Sections on legal costs, traits to look for in a lawyer and lawyer advertising will help to give some shape to your decision making process. To put you in control of your decision, I have also included several questions at the end of chapters that you should ask any lawyer who you meet with to discuss your case. It is important to always remember that this is *your* case. Take control of it, and hire the lawyer who you think is the best fit for you.

Trust me when I tell you that by ordering and reading this book, you have already done more to find the right lawyer than many accused

people will do throughout the entire process of selecting a lawyer. Ordering this book is a great start, but you have more work to do. Follow the instructions provided in the following pages, and personally meet with every lawyer who you consider.

As you read through this book, please keep in mind that none of the information within should be considered legal advice.

For in-depth legal information pertaining to your specific case, there is no substitute for actually consulting with an experienced criminal defence lawyer who practices in Ontario.

My background

Much of the information in this book stems from the experiences I have had over 14 years of practicing law in Ontario. Throughout that time, I have successfully defended many accused individuals facing criminal charges under the *Criminal Code of Canada*. I have met with enough clients in my career to understand the stress, worries and uncertainty that can overwhelm someone charged with a criminal offence. I know how important it is to find a lawyer who will fight for you.

After graduating from law school, I had the opportunity to work with some of Canada's top criminal defence lawyers. In 2005, I leveraged that experience to start my own law firm.

From my time working with other reputable and successful lawyers, I can tell the difference between a great criminal defence lawyer, and one who may make mistakes that can lose your case. I also understand the advertising techniques that some lawyers use, and the best ways to avoid being tricked into hiring a lawyer who will *not* handle your case confidently and effectively.

I have built my practice around providing top-quality legal information and advice. At Auger Hollingsworth, we regularly write and distribute books like this one free of charge because we know that this type of information can be difficult to find.

I have authored two other consumer guides on Ontario criminal law: *Not Guilty! Fight and Win your Criminal Case* and *Fighting Drinking and Driving Charges*. These books are available online, free of charge, at www.criminaldefenceottawa.ca.

I hope this book helps you find the best Ontario criminal lawyer to help you fight your charges, or if you are just curious, I hope you find it both engaging and informative. Our criminal defence firm offers free consultations, and we take on criminal cases all over Ontario. If you are interested in speaking with me personally about your case, I would be happy to hear from you. Call us at (613) 233-4529, or email me at richard@criminaldefenceottawa.ca

Section 1: Traits to look for in a criminal defence lawyer

The following chapters will outline the key characteristics of a great criminal lawyer. I believe you should evaluate every lawyer who you consider to take on your case based on these important traits. While employing all of these criteria may be time-consuming, it is a very important part of doing your research and due diligence.

None of these areas should be compromised if you want to find a lawyer who will fight your criminal charges successfully. When you meet with potential lawyers, be sure to ask the questions that I have included at the end of each chapter. You have the right to ask these questions and it is in your best interest to do so.

Chapter 1: Honesty

When you are confronted with criminal charges, there is nothing more important than finding a lawyer you can trust. The trust between a client and a lawyer who is needed to fight a case successfully is built on a foundation of honesty. It is almost impossible to have a positive working relationship with someone that you do not trust, or someone who you think is not being honest with you. Examine some of your past experiences and you will certainly agree. Never is the need for honesty more crucial than in the relationship between a lawyer and his or her client. I can't stress this enough – honesty is absolutely paramount.

Thankfully, there are ways that you can gauge just how honest a lawyer is while you are sitting in front of him or her, and sometimes even before that. In the final section of this book, I talk a lot about some of the less-than-honest advertising techniques that some lawyers use to get clients. If you found a lawyer in one of the ways I talk about there, you might have cause to wonder whether that lawyer is honest enough to handle your case. It is hard to forge a trusting professional relationship if that relationship started based on someone misleading you.

For this chapter, I will outline a few ways that you can get a sense of the character of the lawyer you're talking to in person or over the phone. Although I give specific examples, I do believe that you should follow your gut in a lot of situations. If you are in a consultation with a criminal defence lawyer and something he or she says makes you uneasy, listen to that feeling! If you feel like you are getting the "hard sell" and the lawyer in front of you is only talking about how *easy* your case will be to *win*, that should raise some red flags.

Listening to your gut can be tricky though, because you should not run away from every lawyer who makes you feel uncomfortable at some point during a meeting. In fact, if your lawyer is being honest with you, some things he or she might say *should* make you worried or uncomfortable. You want to be working with someone who will tell you frankly about your case and your options. That is one of the hallmarks of a good lawyer.

Honesty: About the potential outcomes of your case

This is tremendously important. I know it can make you feel comforted to hear a lawyer say that he or she will *definitely* win your case. I can imagine how great hearing a lawyer guarantee a win must be. Any lawyer who guarantees an outcome, tells you how easy your case will be, or paints a totally rosy (and unrealistic) picture of how your case will progress, should not be trusted.

If you needed brain surgery, would you want the procedure done by someone who guarantees success on his website? I didn't think so. You want brain surgery from the best brain surgeon in the region!

That surgeon will be honest with you before the procedure about the risks, the likely outcomes and everything else. You want the same thing from your lawyer.

If a lawyer you are meeting with is optimistic or confident about your case, that's great. You want someone working for you that thinks he or she can get the result that you are looking for. However, the confident lawyer should also lay out what will happen if things do not go as planned. Every case has challenges, and every trial or sentencing hearing can have different outcomes. Part of what a lawyer should do for you is give you an honest assessment of what you are up against.

Honesty: About legal fees

One easy way to evaluate the honesty level of a potential lawyer is to look at the way he or she charges clients. As I will outline later in the money section of this book, you should be working with a criminal lawyer who uses a retainer system. Retainer agreements are the most honest and effective way to hire legal representation, and they allow you to effectively plan ahead.

Talking with your lawyer about fees is expected. However, it should not be the first question you ask, and frankly, there are more important things than cost. A good lawyer will be upfront about how his or her fees will be calculated and when he or she will be able to give you a fee quote.

In many cases, the lawyer will need to see the evidence of your case before providing a firm quote.

A lot of lawyers will be flexible about payment plans if you approach the situation honestly. If you really want a certain lawyer to represent you, tell them what you can afford to pay now and how you will be able to pay the rest of the fees at a later date. The lawyer you want probably won't adjust his or her fees drastically, but they might be flexible about the scheduling of payment.

Honesty: Questions to ask

What challenges do you see in my case?

What will be the final outcome of my case?

What is the worst case scenario?

What is the best case scenario?

What are my options and what are the risks and benefits of each option?

When do I have to pay my fees?

What are all the fees that I might be facing, including costs, investigators, experts, etc.?

Chapter 2: Experience

When it comes to criminal defence lawyers, experience definitely counts. Just like you wouldn't want a junior carpenter building your house, you definitely do not want an amateur lawyer handling something as complex as your criminal case. It takes years of handling criminal cases, going to trial, and dealing with prosecutors, juries, and judges before a lawyer can start to fully learn the strategies required to win criminal cases in Ontario courtrooms.

To be absolutely certain your case is in the best hands, you will want to hire a lawyer with **at least ten years** of experience handling Ontario criminal cases. After this many years of practice, most lawyers will have gained experience working on cases involving a wide variety of criminal charges. Chances are they are also familiar with different strategies that the Crown might employ in your particular case.

Experience: Focus on criminal law

There are many Ontario lawyers who practice criminal defence law as well as real estate law, personal injury law, or commercial litigation. You do not want to hire one of these generalist lawyers. You probably would not want a general surgeon handling your specialized heart surgery. Why would you want a generalist lawyer handling your criminal case? To get the best possible representation, you need a lawyer who devotes **100 percent of his or her practice to criminal defence cases**. Here are a few reasons why:

- Ontario criminal law is constantly changing and evolving, and you need someone who spends enough time working in the field to keep updated on the changes.
- A criminal defence specialist typically subscribes to various publications that deal specifically with Canadian criminal law.

- Criminal law cases and legislation such as the *Criminal Code of Canada* and Ontario's *Highway Traffic Act* are far too complex for a "generalist" lawyer to master. Remember, these types of lawyers are only working with criminal law on a part-time basis. It's difficult to work with real estate law in the morning and with criminal law in the afternoon.
- A criminal defence specialist typically devotes his or her time to perfecting **courtroom skills**, such as cross-examination. Having a courtroom-tested defence lawyer is a critical component for winning many criminal cases in Ontario. Experience with courtroom trials concerning other legal areas is irrelevant because presenting and arguing a criminal case has its own unique challenges.

Experience: In trial

In Ontario, there is always a chance that the charges against you will be dropped before the case even makes it to trial. Unfortunately, that is not always the case. You need to ensure that you hire a criminal defence lawyer who is ready to represent you in the courtroom.

Once a case goes to trial, the only way to successfully fight the charges is to convince the judge and/or jury that the charges should be dismissed. A lawyer who has fought many different cases at trial develops a keen understanding of the flow of a trial, how to proceed in different situations, what to watch for, etc. If you are going to court, you want to go with someone who's been there before.

Trial experience in a criminal courtroom is not worth much if many of those trips to the courtroom have resulted in client convictions. You need to make sure the lawyer you select has achieved impressive verdicts in previous criminal trials.

Winning a trial is not easy. There is a set of critical "courtroom skills" that a lawyer needs to have in order to perform successfully at trial. Many lawyers lack those skills, and they lose cases for that reason. Unsuccessful or inexperienced lawyers are sometimes prone to talking down to jurors, becoming flustered in the courtroom, or making other

critical mistakes. Conversely, experienced and successful trial lawyers have a talent for building credibility among judges and jurors. They also have the skills to confidently and effectively cross-examine witnesses. These are traits that you want in the lawyer you chose to fight your case.

Experience: Familiarity with your region

I am not going to tell you that connections with police and Crown attorneys and judges are going to make all the difference in your case. I am happy that our system does not work that way. I would not want to live in a country where criminal charges get dropped because a defence lawyer happens to be golf buddies with the judge in the trial.

Hiring a lawyer based on his or her “connections” is a bad idea, but hiring a lawyer who is familiar with the players and places in your region is important. I would not recommend hiring a lawyer for your Ottawa fraud case that has never been to Court in Ottawa. If your lawyer is experienced in the region where your charges were laid, that can only help. Just do not think that a lawyer’s friendships are going to help you get the result you are looking for.

Experience: Concentration on your specific type of case

Though it is very important to seek out lawyers who specialize in criminal law, it is not as important to find a lawyer who focuses exclusively on a narrow area of criminal law. Experience with similar cases is always helpful, but no two cases are exactly the same! Choosing the *better* lawyer is always the right decision. If the choice is between an experienced general criminal lawyer with a great track record and an inexperienced, unproven assault-case specialist, I think it is obvious that the general criminal lawyer is the better choice, even in your assault case. Great lawyers can read the law, research your issues, and build a persuasive case.

I focus on a few different legal areas, and I would tell a potential client if I was not prepared or comfortable handling his or her type of case. Any good lawyer would do the same.

Experience: Former Crown Attorneys

Many criminal defence lawyers advertise the fact that they used to be assistant Crown Attorneys (prosecutors). Though this experience seems to attract clients, it should not be a deciding factor. What helps you best practice criminal defence law? You guessed it, practicing criminal defence law!

Someone who has always been drawn to criminal defence is probably more passionate about it than someone who has made the switch to it from elsewhere. If you do hire a former assistant Crown Attorney, do it because you are impressed with the lawyer's experience in criminal defence.

Experience: Questions to ask

How much of your practice is criminal defence?

Have you always worked in criminal defence law?

Do you feel comfortable handling a case like this, or would you rather refer me to another lawyer?

Given what you know about my case, do you see any motions you may consider filing?

Have you tried many cases in [your region]?

Chapter 3: Track record

Experience is immensely valuable, but it is important to distinguish experience from track record. Is a 15 year history of losing criminal defence cases at trial better than a 5 year history of winning? Of course not!

There is no better indicator of the quality of criminal defence lawyer than his or her track record. In the end, criminal lawyers are in a results-oriented business, and they make their living by achieving results that make their clients happy. Obviously, no lawyer can succeed in achieving his or her goals in every single case they take on, but you want a lawyer who does get **consistent results**.

Track record: Case results and testimonials

People with criminal charges are often facing life-altering consequences, and it is normal to want to know that people in the same situation have come out the other side with their lives intact. The best way to learn if a lawyer you are thinking of hiring has a history of success is to review his or her website and look for case results and client testimonials.

Good lawyers will have sections on their websites that show details of past cases, as well as client testimonials. Imagine you were charged with impaired driving in Ontario, would you not like to hire a lawyer who has helped many clients have their impaired driving charges dropped or dismissed? Likewise, would you not like to read a testimonial from a past impaired driving client who has gone out of his or her way to recommend a particular lawyer for this type of case?

Any lawyer who has had a lot of past success and has been given great testimonials from past clients would want to include these elements on his or her website.

Track record: Awards and distinctions

If a lawyer has been recognized by his or her peer group, governing bodies, professional organizations, or even local associations, it's usually for a reason. These awards and distinctions can serve as a "quality seal," indicating that you are dealing with a professional who delivers excellence to his or her clients.

Awards from reputable places are a great way to get an impartial assessment of a potential lawyer. For example, if you trust a local magazine and that magazine has independently endorsed a certain lawyer – that is a great indicator that the lawyer is one of the good ones.

Just like positive case results and testimonials, I believe that a lawyer should display his or her awards and distinctions on his website and in other materials. If the lawyer you are researching has not achieved any public recognition, it may be a good idea to keep searching.

Track record: Previous discipline

In Ontario, all lawyers are licensed, regulated and governed by the Law Society of Upper Canada. One of the main functions of the society is protecting the public and dealing with lawyer complaints.

In response to complaints, the Law Society takes disciplinary action against the lawyer in question. Although it might not be an easy thing to bring up in a meeting, you have a right to know whether the lawyer you want to work with has been disciplined or complained about.

Having been disciplined in the past does not necessarily mean that someone is a bad lawyer. However, if the lawyer you are meeting with has been disciplined, you may want to ask them about the situation.

Track record: Questions to ask

Have you been successful in having charges dismissed in a case *similar* to mine?

Can you show me client testimonials or case studies?

Have you ever won any awards?

Have you ever been disciplined by the Law Society?

Chapter 4: Commitment to clients

It seems obvious that showing a real commitment to clients is an important characteristic of a criminal defence lawyer, but it is surprising to see how many lawyers seem to not put the client first.

This can happen for a number of reasons. Sometimes, lawyers are more concerned with their business' bottom line than with the well-being of their clients. That can mean that they take on too many clients than they can effectively handle. That often translates into negative results in your case.

Commitment to clients: Attentiveness

While preparing your criminal defence case, you are going to be meeting with your lawyer numerous times. During these meetings, he or she will be working together with you to gather valuable details on your background and about the circumstances behind your charges. It is imperative that you find a lawyer who is attentive to your needs and capable of really listening to the details you share with him or her.

Needless to say, you do *not* want a lawyer who will miss details during meetings. You also do not want a lawyer who will ignore your questions or concerns when you bring them up in conversation. The best criminal defence lawyer will try to develop a thorough understanding of how your life has changed since you were charged with a criminal offence. They will get a sense of your goals and work with you to develop strategies that will help you to reach those goals.

Good criminal defence lawyers only take on new clients if they know they have enough time to personally dedicate to that client and his or her case. Do not make the mistake of speaking with a seasoned and impressive lawyer at a big firm and assuming that he or she will actually be handling your case. Some of these lawyers sit in client meetings all day, sound impressive, and then pass on work to junior lawyers and support staff. You want to hire the lawyer who will be by your side from beginning to end.

Commitment to clients: Support Staff

Although you want to ensure that the lawyer you meet with will be doing the brunt of the legal work in your case, quality support staff is very important. Law clerks and other support staff should be involved in your case and should work very closely with you as you proceed with fighting your criminal charges.

Support staff will be handling your files, reporting court dates to you, and organizing the legal paperwork for your trial and other proceedings. You want to hire a lawyer whose legal support staff enjoy an excellent business relationship with the other colleagues at the firm, especially the lawyers. If you are not immediately introduced to every member of the team you will be working with, that is a clear warning sign that you are not dealing with the best lawyer for your case.

I cannot make this clear enough: you want to hire a lawyer who will do the *legal* work in your case him or herself, and that has a competent support staff that will help your case move along as easily as possible.

Commitment to clients: Questions to ask

Who will be working on my case?

Who will be representing me in court?

Can I meet the other people in the office that will be involved with my case?

Chapter 5: Commitment to the law

To handle your criminal defence case, you want a lawyer who is passionate about the law in general and about criminal law in particular. There are plenty of lawyers who do not take the time to read key journals, study legal precedents and contribute to the advancement and evolution of the law. Those are *not* the lawyers you want.

Just like you want your children's teachers to keep up with changing technology and changing standards in education, you want your lawyer to stay on top of all changes in the law. Criminal law is always growing and evolving and it can get tedious for those who are not passionate about it. The best way to see whether a lawyer is passionate about the law is to find out how they are contributing to the growth and understanding of it on a daily basis.

Commitment to the law: Contribution to the field

Often the most sought-after university and college professors are the ones who are knowledgeable enough to publish articles and texts on their fields of expertise. The same is true of lawyers. When searching for a lawyer to hire, you ideally want to find one who has contributed to publications, or even put out his or her own books and booklets.

Lawyers who take the time to present new information and useful tips on their websites should be sought after. Lawyers who answer frequently asked questions and write regular blog posts and articles on their websites are the best lawyers you can find for your case.

If a lawyer is taking these steps, it shows that he or she is dedicated to spreading knowledge to not only potential clients, but to the general public.

Commitment to the law: Media appearances and commentary

In the same vein, media appearances are another sign of a great lawyer. If a lawyer is knowledgeable enough to speak confidently about law on the television or radio, chances are he or she will be able to confidently handle your case.

The media know to seek advice and comment from informed and knowledgeable sources. If the lawyer you are thinking of hiring does regular commentary for print articles or TV, he or she is probably very knowledgeable about his or her field. Conversely, if the lawyer you are meeting with has never had his or her name in the newspaper, you might want to keep looking.

Commitment to the law: Questions to ask

Have you written any articles or books that I can have a look at?

What journals or legal magazines do you regularly read?

What sorts of free information materials do you offer to potential clients and the public?

Have you been asked to comment on the law or a particular case by the media?

Chapter 6: How to be a good client

Once you find the right lawyer for you, one that has shown that he or she is committed to you, it is important to know how to be a good client. Being a good client can help your lawyer properly defend you and it increases your chances of receiving a favourable outcome in your case.

Here is a quick list of things to remember:

- **Be honest**

Just like honesty is an important quality in a criminal defence lawyer, it's an important quality in a client. If you withhold information or provide your lawyer with false information, you will not receive the best defence. Period.

- **Understand boundaries**

Do not call your lawyer first thing Monday morning, or every day. Yes, it is acceptable to expect to be updated in your case, but be reasonable! Keep in mind that your lawyer has other clients and responsibilities. While providing you with a good defence is a priority for your lawyer, it is important that you follow your lawyer's communication policy. Good lawyers prefer to speak with their clients during pre-arranged telephone calls or meetings. This allows your lawyer to focus on your case and enables both of you to get the most out of your conversations.

Discussing and planning your case during these scheduled phone calls or meetings is much more productive than starting and stopping quick phone calls or answering e-mails throughout the day. This policy allows your lawyer to work efficiently and provide you with the best attention and services.

- **Be proactive**

Schedule meetings or calls with your lawyer before or after Court appearances. Pay your costs immediately. If the case is taking longer than expected, offer additional payment. If you chose the right lawyer, he or she should refuse.

- **Be focused**

Don't waste time in meetings talking about your "friend's case" or telling your lawyer about the legal advice you received from your brother. Don't play the role of the victim and complain non-stop about the police or Crown. Spend the time you have with your lawyer discussing your case and the best way to move forward.

- **Say thanks**

Regardless of the outcome of your case, take the time to thank your lawyer and his or her staff for all the work they did. If you chose the right lawyer, he or she exerted a lot of time and effort trying to help you handle your criminal charge. If you are happy with the outcome, offer a testimonial. These can be done anonymously.

Chapter 7: A Lawyer's Personality

It might seem odd to factor a lawyer's personality into your decision making process, but it is important. You will have a close relationship with your lawyer, and it is critical that you are able to work together well. Think about the following four personality traits when you are looking for a lawyer:

Aggression

Aggression can be a good or a bad thing, and you should try to evaluate what level of aggression you want in your lawyer. In many criminal cases, there are benefits to having a lawyer who can be aggressive when he or she needs to be, but make sure that the lawyer you hire is not going to turn that aggression towards you.

Intuitiveness

Intuition is a crucial personality trait for lawyers, and it is something that is often lacking if a lawyer is overly aggressive. An intuitive lawyer can understand the needs and values of his or her clients, and the needs and values of the other players in every case. An intuitive lawyer will understand Crown attorneys, police officers, and judges. That can be quite valuable in a criminal defence case.

Confidence

As you would guess, confidence is a very important personality trait for criminal lawyers. However, do not mistake bravado for confidence. The lawyer you want to represent you should exhibit a quiet, knowing confidence. This type of confidence will help a lawyer understand your case, the facts, your rights and the proper course of action to take. Real confidence will help a lawyer fulfill the needs for which he or she was retained.

Practicality

Practicality for a lawyer means the ability to quickly size up situations and understand the most efficient ways to accomplish a goal. Practical lawyers are usually experienced lawyers. With experience comes the ability to quickly judge where to exert effort, how to speed up processes and what solutions to propose.

Section 2: Lawyer advertising

Criminal defence law, like just about every other profession, is very competitive. There are a lot of lawyers and law firms looking to boost profits and attract new clients. Like in most other professions, fierce competition leads to aggressive advertising.

There is nothing wrong with lawyers and law firms advertising. Law is a business and lawyers need to make a living. In this section, I hope to shed light on some of the dishonest advertising practices that some lawyers use, and to showcase the different positive advertising techniques that you should look for when you are researching potential lawyers.

Do not make the decision on who to hire as your lawyer based on the tired slogans that many lawyers use. Beware the following slogans:

- "Aggressive legal representation"
- "Super lawyer"
- "Highest rated"
- "We will fight the hardest for you"
- "I care about you"

None of these slogans really tell you anything about the lawyer or his or her ability to handle your criminal case. Do not make a decision based on advertising that is meant to appeal to your fears and take advantage of you.

Use this advertising section, and the rest of this book to identify lawyers who have the right qualities and experience to help you handle your case.

Chapter 8: The wrong way to advertise

Using the internet to find a lawyer can be tricky, *especially* if you are using lawyer directory websites that claim to help you choose a lawyer for your particular case. Although many of these websites can look trustworthy – some may even do a convincing job of looking like publicly provided services – it is crucial that you understand how these websites work. They are all privately run, and designed to attract profit!

All of the lawyers who are listed on these sites have paid to be included. That does not mean that they are not great lawyers, it is just important to know that the reason names and firms appear where they do is based on money, not merit.

There are many of these directory websites in Ontario. Some examples include www.lawyerlocate.ca, www.ontario-lawyer.ca and www.canlaw.com.

Before you click on any of these sites and begin using them to try to find a criminal defence lawyer, make sure that you understand what you are getting involved with.

The first big step is to know the difference between a **directory site**, a **referral site**, and a **referral firm**.

Directory Sites

If you've ever used the Yellow Pages™ to locate a service provider, then you have a pretty good idea of how these web sites are designed. Just like a phone book directory, these sites operate on a simple system: the lawyers who *pay more* will have larger and more noticeable listings on the site. Most of these online directories feature search tools that you can use to narrow down your search and find a lawyer who specializes in a certain area. That means that you will be shown the lawyers who have paid to appear based on the search terms you entered into the site.

Referral Sites

A referral site works a little differently. Instead of featuring listings, it asks visitors for detailed information – i.e. contact information and the specifics of your case – and then uses this information to put you in touch with a lawyer who will supposedly match your needs. This may sound more accurate and trustworthy than a directory site, but these sites are run in a financially similar fashion: lawyers pay to be referred. This means you are more likely to be referred to a lawyer with a large marketing budget. A lawyer who pays the most to advertise where you happen to be searching is not necessarily the best lawyer for your case.

Referral Firms

This is a third type of website that some people facing criminal charges turn to in an effort to find the right person to represent them. I would certainly be wary of using this type of service. Sometimes, a firm or lawyer, usually one who pays a great deal for advertising, will have a web site set up that advertises a set of legal services without having the intent or capability to actually provide those services to clients.

After someone shows interest, the referral firm then passes the case along to a lawyer or firm in your area that will pay the referral firm for the service. Obviously this is not an ideal solution, as you end up dealing with a completely different lawyer and firm than the one you were interested in consulting with.

It is also possible that the firm you do end up consulting with will attempt to hide the referral fee in your bill for legal services. That means that you would be unknowingly paying some, or all, of a referral fee to consult with someone you were not even interested in in the first place.

As you can see, referral sites, directory sites and referral firms are often just advertising services. There are more effective ways to find the right lawyer.

Another important thing to keep in mind is how **little useful and meaningful information** these sites provide about any given lawyer.

Even if a lawyer seems to match your needs, there is barely any information provided about the lawyer's experience, case history, etc.

If you put blind faith in a referral or directory site, you could get stuck with a lawyer who has never even taken your type of case to trial!

Keep an eye out, also, for sites who list certain lawyers as "prescreened". Much of the time, being "prescreened" simply means that the particular lawyer was able to pay the costs of including themselves within the directory or referral network.

Misleading headlines

There are a number of common warning signs that can indicate that you are dealing with a referral or directory site. Watch out for the following common phrases:

- "Free lawyer finder services"
- "Law firm directory"
- "Find, research, screen and contact a lawyer"
- "Lawyer profiles"
- "Find a lawyer in your area based on location and specialty"

As a serious criminal defence lawyer practicing in Ontario, the best advice I can give regarding these sites is to stay away from them. Only *you* can most effectively decide which lawyer is best suited to take on *your* criminal case. The outcome of your case can have enormous implications on your life, and who you choose to represent you plays a huge part in determining the outcome of your case. You should not outsource that decision!

It is also important to remember that, especially in criminal defence, the lawyer you pick is someone who you will be working with closely over a long period of time. It could be months or years before your legal battle is over. You do not want to start that business relationship based on information you found on a third party website.

Chapter 9: The right way to advertise

Thankfully, there are ways that respectable lawyers do advertise. Here are some smart alternatives to using referral and directory web sites in your lawyer search:

- When looking online, view individual lawyers' and firms' web sites. Try to find testimonials, case results, and helpful information that shows that the lawyer knows what he or she is doing when it comes to your criminal charges.
- Study any prospective lawyer's background and training. When were they admitted to the bar? Where have they worked previously? Remember, you are best suited with a lawyer who has more than 10 years of experience.
- If available, you should read any articles and watch any videos a lawyer has posted on his or her website. You could be spending a lot of time with this person, so finding someone that you can see yourself working with is critical.
- Complement your internet research with word-of-mouth research. Ask family, friends and colleagues to see if anyone knows of a lawyer who they have had a positive experience dealing with, and who practices in the area of law relevant to your charges.

Quality website content

Some potential clients may feel that a web site is not a very reliable way to judge a potential lawyer. It is true that it should not be the only research tool you use, but it is an important one. Lawyers who put in the effort to make their web sites more than mere electronic business cards are lawyers with a genuine commitment to public service and providing information. Having a detailed and informative website is usually a sign that a lawyer has nothing to hide.

If the site has a great deal of educational content, that is the sign of a great lawyer. Lawyers who consistently produce content with the aim of spreading knowledge are typically lawyers who are not in the legal industry “just for the money”. As I said in the previous section, the lawyer who provides meaningful information on his or her website is usually passionate about the law. This passion often translates into results for clients.

Lawyers who gain respect because of their insightful writing are clearly advertising the right way. I do not think anyone would say that providing free articles, blogs and even books is an unethical way to advertise.

Honest paid advertisements

There is no problem with law firms paying to advertise, so long as they are not trying to hide the fact that they are advertising. If a law firm has taken out an ad in a newspaper or on the television, it does not mean that that lawyer is acting unethically. It is just important to recognize the difference between paying to post an ad, and paying for what is meant to appear as a free referral.

If you see or read a lawyer advertisement, beware of unrealistic claims or guarantees. And if a lawyer or a law firm boasts “criminal law experts”, make sure to check that out! Just because a lawyer is saying it, does not mean it is true. If an ad worked well enough to get you to a lawyer’s website, it has done its job. To make the decision of who you should hire, you need to review website content, and most importantly, speak with the lawyer.

Friend or family referrals

A referral from someone who you trust can be very valuable. A friend or family member will have your best interests at heart, and will want to put you in a position to have a positive outcome in your case.

However, a referral from a friend should not count more than the other important traits that I outlined in this book. Misguided advice will not help you at all. If you are referred to a lawyer, do your research and make sure that you would be interested in that particular lawyer independent of the fact that he or she was referred to you. Do not make the mistake of hiring a friend's lawyer who does not specialize in criminal law.

Also, if you do consult with a lawyer who was referred to you, make sure that he or she will work on the case at arm's length. You do not want to work with a lawyer who is doing you a "favour". Lawyers doing favours for people often do not treat the case with the same seriousness as they would another client's.

Section 3: Costs and the criminal defence lawyer

When people are accused of a criminal offence, the cost of a lawyer seems to always be top of mind. Honestly, this fact is a bit strange to me. I am not cold-hearted and I do understand that finding the money to pay for a criminal defence lawyer can be difficult for a lot of people. I just wonder what could be more worth the money than finding the best lawyer to fight your criminal defence case. Think of the repercussions that can result from a criminal offence!

Even if you are accused of a less serious crime, think of the fallout that a criminal record could have on your life. A criminal background check is required to get (or keep) most jobs and a criminal record can follow you around forever.

The cost of a lawyer should factor into your hiring decision, but it should not be the deciding factor. This is one of the most important decisions you will ever have to make. It is not the time to sniff out a bargain.

Chapter 10: Do I get what I pay for?

This is a tough question to answer. I can tell you that the most expensive lawyer is not necessarily the best lawyer. Legal fees can depend on a lot of things, including the size of the lawyer's firm and the lawyer's operating expenses. With that said, there is usually a reason that certain lawyers *can* charge higher fees than others. A Mercedes is always going to be more expensive than a Toyota. And when it comes to hiring a criminal defence lawyer, you probably want the Mercedes.

If you think you have found the lawyer who you want to hire, and his or her fee is above your budget, it is acceptable to explain your financial situation and try to come to a suitable arrangement. Tell the lawyer you want him or her to represent you, outline what you can afford now, and explain how and when you can get the rest of the money.

When you are meeting with a lawyer, make sure to dress like you take the lawyer and the situation seriously. This meeting could have a lot of consequences for your future. The last thing you want is to give the lawyer you are meeting with the impression that you just do not care.

Do not try to negotiate the fee, and do not bring up the prices you have been quoted by other lawyers or law firms. Criminal defence is a serious matter; it is not the time to haggle. Making the lawyer think that you believe he or she is not worth the fee you have been quoted, or that you think you are overpaying just does not make sense.

Chapter 11: How can I afford this?

Criminal charges are unexpected. In all my years of practicing criminal defence law, I have yet to come across someone who has planned, budgeted for and prepared for their criminal charges and criminal defence case.

Dealing with these charges in the best way possible is hugely important for the rest of your life. You are in trouble, and you need help. Do not take risks about your future by hiring a “cheap” lawyer.

If you are worried about how you are going to afford the right lawyer, here are a few tips that can help you through the process.

- **Take your time**

If you are reacting promptly to your arrest and charge(s), you need to understand that you have a bit of time to decide who you want as your lawyer. The law understands that people need time to find the right representation, so be thorough and be sure to make the decision that works best for you.

You should be careful about lawyers who pressure you into making a decision immediately. Some of the lawyers who operate this way are simply taking your case to get a retainer cheque that will help pay that month’s rent. If you find a lawyer who is suspiciously cheaper than all the others you have talked to, he or she might be desperate. You do not want a desperate lawyer who is more worried about keeping his business afloat than about your case.

If you speak with a few different lawyers who have been recommended to you, you should get a general sense of what fees are typical for your type of case. As we discussed in the last chapter, there are things that will cause lawyers to charge different rates. However, if you speak to a few good lawyers, a reasonable range should start to emerge.

- **Make money secondary**

Even when you are worried about how you are going to afford a lawyer, you need to keep the money issue in the background.

Do not call a potential lawyer and ask about fees first. Do not ask about a consultation fee. At the end of your meeting with a lawyer, there will be time to discuss fees and payment options. That is the best time to raise whatever issues you have with the cost, and to talk about different ways you can fulfill the cost requirements.

- **Ask for help**

If you cannot afford the lawyer you want to represent you, then it is time to ask for some help. Tell family members or friends that you are looking for a lawyer and you will need \$5,000 to \$10,000. I know it is painful to ask for money, but you are in a bad situation. Swallow your pride, borrow the money and hire a lawyer who gives you the best chance of getting your case resolved the way you want it resolved.

- **Invest today**

There are not many things more important than fighting your criminal charge, so keep that in mind when you are hiring a lawyer. You took on debt to go to school and/or to buy a house. The results of your criminal case are probably just as important.

Check your credit card balances. Most lawyers will take credit card payments, and if not, most credit card companies can provide you with a cheque for a cash advance. Go to your bank and try to secure a line of credit to help pay for your fees.

If you get the result you are looking for after you hire an "expensive" lawyer, I guarantee you will say it was worth every penny.

- **Communicate**

Understanding how to broach the subject of money with a potential lawyer is extremely important. I have said that you should make money secondary, but I understand that concerns about how to pay can often cause a lot of anxiety. When you do talk to a lawyer about fees, tell him or her what you are doing to raise the money and how and when you can make the required payments.

As I have said before, many lawyers will be somewhat flexible in

arranging a pay schedule. Do not come off as needy, but be honest about where you are financially.

Conclusion

Time to Get Started

My hope is that after reading this book, you will have gained enough knowledge to start your criminal lawyer search with confidence. I have outlined the key criteria that you should look for in a defence lawyer, talked about good and bad advertising techniques, and addressed the issue of money that is at the forefront of so many people's minds.

Remember that the more time and effort you put into your lawyer search, the more satisfied you will be with the outcome of your case.

In addition to asking the questions I included at the end of chapters 1-5, I have prepared another useful tool to aid in your search: the **Criminal Defence Lawyer/Firm Evaluation Card**. It has been printed on the following page of this book. Please feel free to photocopy this free resource and take it with you while you investigate different criminal defence lawyers for your Ontario criminal case.

If you use the evaluation card, you should be able to keep a good record of which lawyers impress you and which do not.

I wish you the best of luck going forward. If you would like to contact me directly to discuss your charges, or to set up a free consultation, call us at (613) 233-4529. I would be happy to help you understand your charges and to set out a strategy for fighting them.

Criminal Defence Lawyer/Firm Evaluation Form – Choosing Your Lawyer

This form is designed to assist you in evaluating the qualifications of the lawyers or law firms that you are considering to help handle your Ontario criminal case. This complimentary form is provided by Auger Hollingsworth, an Ottawa criminal defence law firm. To learn more about the firm and criminal defence lawyer Richard Auger, contact us online at www.criminaldefenceottawa.ca or by phone at (613) 233-4529.

Make multiple copies of this form and fill it out after meeting with each lawyer who you are considering.

Lawyer/Firm Information

Name Of Lawyer/Firm Being Reviewed:

Contact Information:

Evaluation / Scorecard

| | (5) Exceptional | (4) = Exceeds Expectations | (3) = Meets Expectations | (2) = Marginal | (1) = Unsatisfactory |
|--|---|--|--|---------------------------------------|---|
| Number of Years Practicing Law | <input type="checkbox"/> 15 Years | <input type="checkbox"/> 0-15 Years | <input type="checkbox"/> 5-10 Years | <input type="checkbox"/> 3-5 Years | <input type="checkbox"/> 1-2 Years |
| Specialization | <input type="checkbox"/> Only Handles Criminal Cases | <input type="checkbox"/> | <input type="checkbox"/> General Law Practice | <input type="checkbox"/> | <input type="checkbox"/> Does not Typically Handle Criminal Cases |
| Trial Experience | <input type="checkbox"/> Goes to Trial Several Times Per Year | <input type="checkbox"/> | <input type="checkbox"/> Occasionally Goes to Trial | <input type="checkbox"/> | <input type="checkbox"/> Has Never Gone to Trial |
| Trial Wins | <input type="checkbox"/> Frequently Wins Cases like Mine at Trial | <input type="checkbox"/> | <input type="checkbox"/> Has Won a few Cases like Mine at Trial | <input type="checkbox"/> | <input type="checkbox"/> Has not Won a Case like Mine at Trial |
| Awards/Distinctions | <input type="checkbox"/> Has Been Recognized By Peers & Media | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> No Special Recognition |
| Quality Of Website Content | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Quality Of Books, Articles, Videos, Etc. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Client Case Studies/References | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Displayed Knowledge of My Particular Type of Charge(s) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Staff (Receptionists, Legal Assistants, Paralegals) is Courteous and Responsive | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Additional Comments:

About Richard Auger

If you have been charged with a criminal offence anywhere in Ontario, Richard Auger is one of the top criminal lawyers available to represent you.

Specialized Experience: Over more than 13 years of practicing criminal law, Richard has developed a reputation for successfully handling cases concerning a wide variety of **criminal offences**, including:

- Impaired Driving
- Fraud
- Tax Evasion
- Murder and Manslaughter
- Assault
- Many other offences under the *Criminal Code of Canada* or Ontario's *Highway Traffic Act*



Since obtaining his law degree from the University of Ottawa in 1995 and becoming a lawyer in 1997, Mr. Auger has represented clients in countless criminal court trials. He has represented numerous professionals, including physicians, surgeons, lawyers, veterinarians and police officers.

Tough Reputation: Richard is well known for his meticulous preparation, his fearsome cross-examinations and his relentless research of the law. Court opponents know that if a point of law arises on a case, Richard will have a complete case book and detailed knowledge of the pertinent law in the area. Richard understands that many cases are won by "out-preparing" the other side.

Media Presence: Richard is a legal authority who speaks to reporters often. He has been interviewed on CTV's "Canada AM" and quoted in every major newspaper, including *The Ottawa Citizen*, *The Globe and Mail*, *The National Post*, *The Montreal Gazette* and *The Toronto Star*.

Author: Richard is the author of three consumer guides on Ontario criminal law: *Not Guilty! Fight and Win your Criminal Case*, *Fighting Drinking and Driving Charges* and *Choosing the Right Lawyer*. All three books are available online, free of charge, at www.criminaldefenceottawa.ca.

If you have been charged with an Ontario criminal offence, contact Richard Auger directly by email at richard@criminaldefenceottawa.ca or by phone at (613) 233-4529.

Disclaimer

This book expresses the opinions of criminal defence lawyer Richard Auger, on the subject of finding the best criminal lawyer for your case. This information in this book does not constitute legal advice. The suggestions and the warnings that I provide in this book are not a substitute for consulting with or hiring a lawyer. I do not represent you, and I cannot give you legal advice unless and until you hire me, and I have agreed in writing to accept your case.

This book was written to empower those charged with a criminal offence and to give those people the tools to make an informed decision when they hire a lawyer. I hope that you found the information helpful.

At your request, we will send a free copy of this book to anyone in Ontario. Simply visit www.criminaldefenceottawa.ca to order a copy.

CHOOSING THE RIGHT LAWYER

Finding the right lawyer can be a difficult and time consuming process. If you have been charged with a criminal offence, you might be nervous or unsure about how to move forward. The decision on which lawyer to hire is one of the most important you will ever have to make. It could make a real difference for your life and future.

This book was developed to answer your questions and to equip you with the knowledge and information you need to hire the best possible lawyer for your case. The author, Richard Auger, is an experienced criminal defence lawyer who believes that too many people rush into hiring a lawyer without having the proper tools to make the right decision. This book will help give you those tools. Inside these pages, you will find:

- a section on lawyer advertising and what to watch out for;
- an outline of the key traits to look for in a lawyer;
- chapters on how to handle legal costs;
- questions to ask any lawyer you consider for your case; and
- an evaluation scorecard you can bring to meetings with lawyers.

The author draws on his extensive criminal defence experience to provide this step-by-step guide to finding the right lawyer for your particular case. Take advantage of this experience and use this tool to help choose the right lawyer for you.



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