



100 TIPS FOR NEW CRIMINAL LAWYERS

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This month's journal theme — Criminal Law & New Lawyers — is obviously near and dear to my heart as a criminal defense lawyer and one who has spent his career teaching young lawyers. I've combined

both themes for this month's column by including 100 tips for new criminal lawyers. Some were collected through the years while teaching the annual CMBA New Lawyer Boot Camp. A number are taken from local colleagues. Some I have shared with my students in my Cybercrime class at Cleveland-Marshall College of Law. Many were submitted by my dear friends and Fellows of the American Board of Criminal Lawyers (ABCL). While taken from criminal lawyers, for the most part, the advice is equally applicable across all disciplines of law. When seeking input from my colleagues, I asked if there was one piece of advice that they wished they had known when they first start practicing law. The following is in no certain order.

1. Always return your telephone calls even if it is simply to tell the client that there are no new developments. Returning your calls will save you countless headaches. – *Former Ohio Supreme Court Justice Andrew Douglas & James, Voyles, Esq., Indianapolis, Indiana*
2. Only say it or type it if you would be happy to have it repeated in a courtroom or printed on the front page of the newspaper. – *Brian Bieber, Esq., Miami, Florida*
3. Learn to identify and trust your gut instinct. It is always telling you something.
4. Familiarize yourself with the Rules of Professional Conduct and reread them periodically. The first time should not be *after* a problem has arisen. – *Michael C. Hennenberg, Esq., Cleveland, Ohio*
5. Read "Professional Responsibility of the Criminal Defense Lawyer: The Three Hardest Questions" by Monroe Freedman, Esq. – *Joel Sogol, Esq., Tuscaloosa, Alabama*
6. "Act as if." Look as though you are a successful lawyer from day one. Your clients will wonder what "it" is that you, as a new lawyer, have. – *Lynne Severe, Tucson, Arizona (My Mother)*
7. You are always a lawyer. Do not embarrass the profession.
8. Introduce and familiarize your spouse/partner/family early on to your practice of law. Have them come to trial or a hearing. It will help if

they understand why you put in the long hours and what causes the high stress.

9. After hanging a shingle as a new lawyer, generally, it will take one year of tireless effort before the phone rings consistently.
10. Just because you are new doesn't mean you should just follow an order from your employer or supervisor. You are a lawyer responsible for your actions from day one. If you feel the directive is improper, unethical or illegal, you have an obligation to seek an alternative course.
11. If an issue arises with a client, potential client, witness, co-counsel, opposing counsel etc., memorialize it right away.
12. Treat the courtroom staff: bailiffs, court reporters, staff attorneys and courtroom deputies with the utmost respect. Learn their names. Greet them. Thank them. These people talk to the judges and will say nice things about the lawyers they like and are often important decision makers themselves. They can make your life as a lawyer much easier. They will appreciate the attention and most importantly, it is the right thing to do. – *Peter Wold, Esq., Minneapolis, Minnesota*
13. Rarely is there a downside to generating new business as an associate. This will open many doors.
14. Be active in bar associations. This is a people business.
15. Be yourself. Don't try to adopt some other lawyer's technique or style unless it fits your personality. It will be obvious that you are inauthentic, and you will lose credibility. – *Barry Boss, Esq., Washington, D.C.*
16. Listen and pay complete attention to the witness or to your adversary when they are speaking. Our natural inclination is to start thinking of our next question or our response while the witness or adversary is still talking. When this happens, you will miss important information (both explicit and implicit) being communicated by the speaker. – *Barry Boss, Esq., Washington, D.C.*
17. Talk to the jury afterward when possible. You will be amazed by how much you learn.
18. "It matters how you treat other lawyers." Be civil. – *R. Kent Westberry, Esq., Louisville, Kentucky*
19. "Listen to your client's story." Too often, we only talk about the charges, discovery and applicable law. The client is more willing to listen to the

attorney once they've told you their story. You will learn things not provided by the other side.

- *Margaret Sind Raben, Esq., Detroit, Michigan*
20. Don't talk about your cases and clients in a public restroom, elevator or anywhere else. – *Michael Rosen Esq., Miami, Florida*
21. Send thank you and congratulatory notes to other lawyers when appropriate. Handwriting is not dead.
22. Always check and double check the recipients of your emails and text messages. Lawyers mistakenly send the communications to the people they wanted to talk about. Not only is this embarrassing but it is a headache that is very hard to walk back.
23. Keep it simple. Think like a lawyer but do not talk to the jury like a lawyer. – *Bruce Morris, Esq., Atlanta, Georgia and Jeremy Schneider, Esq., New York, New York*
24. We are in a service industry. Never forget that our clients are terrified. We live in this world of criminal law which is entirely unknown to many of our clients. Slow down and take the time that is necessary to help the client understand their case. Be a compassionate person. – *Larry Kazan, Esq., Phoenix, Arizona*
25. Don't spend all the money before the case is over. You may need it for a refund.
26. Always explain how the court operates to your client. During voir dire, the judge asked the jury panel whether anyone had ever been convicted of a felony. My client raised his hand. – *Bruce Morris, Esq., Atlanta, Georgia*
27. Don't be afraid to tell the jury that you are a new lawyer. The jury will afford you trust and forgiveness for mistakes.
28. Be prepared. Be prepared. Be prepared. – *Boy Scouts of America Motto*
29. Don't rub your victory in the face of opposing counsel. It will not be your only case with them or their office. Shake the hand of your opponent if the battle was fairly handled. – *Richard Hirsch, Esq., Los Angeles, California and Mark R. Devan, Esq., Cleveland, Ohio*
30. Do not be the lawyer that television dramas portray.
31. Even the newest lawyer has great strength to sell. Find what it is about you that is unique when telling your story to the finder of fact. The best opening statement I ever witnessed by a prosecutor happened when he

told the jury that he was not funny, not incredibly intelligent, and not charismatic like defense counsel. He then proceeded to let them know that even though defense counsel would be perceived as a much better lawyer, he still had the truth on his side which was that the defendant was guilty.

32. Know when to stop talking.
33. Words should be weighed and not counted. (Yiddish Proverb) – *Steve LaCheen, Esq., Philadelphia, Pennsylvania*
34. If you know you are unable to begin a hearing or trial, call the court, opposing counsel and all witnesses to let them know right away. It is not professional or right to allow them to work through the weekend and be away from their families just to find out on the day of the hearing or trial that it will not proceed.
35. On cross examination, never (well, almost never) ask a question to which you don't already know the answer. – *Barry Winston, Esq., Chapel Hill, North Carolina and Edwin Weiner, Esq., Cleveland, Ohio*
36. You are never too good or experienced to learn more.
37. It is never too early to plan for retirement.
38. The practice of law is also a business. Learn how to be a good businessperson. – *Ashley L. Jones, Esq., Cleveland, Ohio*
39. Take care of your health. This business will not do it for you. – *Joseph S. Friedberg, Esq., Minneapolis, Minnesota*
40. Do not tell a prospective client what they want to hear in order to get their business. If you say anything that you cannot backup, they will eventually find out.
41. If a prospective client is interviewing other lawyers, do not speak negatively of the lawyers.
42. Before an important writing is submitted, that writing should have been developed by at least five drafts. I do not believe the writer can "get it right" without devoting that repeated effort. – *Thomas M. Kelly, Esq., Minneapolis, Minnesota*
43. Grammatical errors and misspellings are unacceptable in any correspondence or filing. Moreover, they are always preventable.
44. Understand technology enough to determine where the evidence may be found.
45. It is easy to get the business in. It is what you do with it once it is in that is difficult. – *Larry W. Zukerman, Esq., Cleveland, Ohio*
46. Be happy for other's successes. Avoid those who are not.
47. Realize how many clients you can effectively represent at once and don't spread yourself too thin. You will do a disservice to your clients and not be the best lawyer that you can be.
48. Before engaging in risky behavior, look at your bar card and ask yourself if it is worth it. – *Joseph Janus, M.D., Cleveland, Ohio*
49. Do pro bono work when you can. It is fulfilling and will reflect favorably upon the profession.
50. Always take the time to teach people why jury service is important.
51. Respectfully tell your client that the worst thing they can do is lie to you as their lawyer. – *Tommy Spina, Esq., Birmingham, Alabama*
52. When presented with a new or different approach, never say, "But this is how I've always done it," unless it always works! – *Pat Mika, Esq., Colorado Springs, Colorado*
53. When practicing in a new jurisdiction, introduce yourself to the judge and ask if there

is any protocol that they expect. This respect will minimize the "out-of-town" lawyer treatment.

54. There's no way you have all the answers or even most of them so keep a list of who to call/email/text for help. – *Barnaby Wittels, Esq., Philadelphia, Pennsylvania*
55. Keep your on-line profiles current.
56. Do not charge more than the case is worth to you. An excessive fee will suggest an assurance. – *Joel Hirschorn, Esq., Miami, Florida*
57. Be on time to Court. If you are going to be late, call the court and opposing counsel to let them know.
58. Remember, the law is always evolving and is about justice. When you feel that the result you are seeking is not just, don't give up because a remedy isn't apparent. Be creative and help the law evolve. – *Stanton Levenson, Esq., Pittsburgh, Pennsylvania*
59. As part of the investigation, the lawyer must always go to the scene of the alleged crime.
60. Cutoff and clean up your client's social media.
61. Always handle your client's case like you would want a lawyer to represent you or your child.
62. Be affable and available to your client. Sometimes they just need the comfort of your voice – *Jennifer Lukemeyer, Esq., Indianapolis, Indiana*
63. When starting out, you will have time. At the end of each day, call three clients and just let them know that you are checking on them. Do not charge them for the call. You will have good clients for life.
64. Think outside the box, always remain loose and be ready to hit the curve ball. – *Vicki Podberesky, Esq., Los Angeles, California*
65. The person who prevails in the courtroom is not necessarily the most dramatic or even the most passionate but, in the end, the most reasonable. Understatement can be a great weapon. – *Michael Stout, Esq., Las Cruces, New Mexico*
66. Take the high road. You will never regret it.
67. Do not accept adverse rulings simply because of their perceived pedigree. Don't just think about legal issues — rethink them. Non-lawyers often do a better job challenging the status quo because they question the wisdom of prior decisions more often than lawyers. – *Jeremy Delicino, Esq., San Diego, California*
68. Always prepare the client for the worst scenario so they are ready for it. – *Tim Rensch, Esq., Rapid City, South Dakota*
69. Don't let your guard down in the courthouse during trial. The jury sees everything, even in the hallway and cafeteria.
70. Always make sure that you are making a solid record for appeal.
71. You are an officer of the court first and foremost. – *Herman "Chuck" Watson, Esq., Bozeman, Montana*
72. Read "The Art of Advocacy" by Lloyd Paul Stryker. I go to this masterpiece when I'm going to trial or whenever I'm looking to recharge the old lawyer batteries. – *Frank Jackson, Esq., Dallas, Texas*
73. Too much "flash" may alienate your jury.
74. There is never going to be a better time to get something done than now. (The Power of Now) – *Adrian Thompson, Esq., Cleveland, Ohio*
75. Tell your clients that you are a lawyer, not a cheerleader; tell them what they need to hear, not only what they want to hear ... But you don't need to beat them up, either ... You may be the only friend they have at that point in their lives. – *Donald Samuel, Esq., Atlanta, Georgia*
76. The legal profession in any town or city is quite small. If one commits an unethical act, the con-

duct will quickly spread and likely reach the ear of the bench. Reputation is everything. Keep yours untarnished. – *David A. Torres, Esq., Bakersfield, California*

77. Always have business cards on you and pass them out.
78. Do not trust expert witnesses, except with rare exceptions. For money, you can probably get anyone to testify to anything. Find out where they are vulnerable before they testify. – *Leonard Ambrose, Esq. – Erie, Pennsylvania*
79. Always remember the value of primacy and recency.
80. At all times, maintain an appropriate professional relationship with clients. – *Brook Hart, Esq., Honolulu, Hawaii*
81. Learn the local court rules.
82. Always acknowledge those who help you. – *Brook Hart, Esq., Honolulu, Hawaii*
83. Before engaging the media, understand how the media works. You can't take it back.
84. Practice in an area of the law that you love and not just for the monetary reward. – *Barry Beroset, Esq., Pensacola, Florida*
85. If the press finds out you got a great deal, protect your prosecutor and judge. – *John Wesley Hall Jr., Esq., Little Rock, Arkansas*
86. Get a mentor. There is nothing better than learning from a master. – *Joseph Beeler, Esq., Miami, Florida*
87. Don't burn bridges as you'll likely cross them again.
88. Be a zealous advocate and don't be afraid to take a stand, worrying about the next case and who you might offend. It's your present client's one shot at freedom. – *David Z. Chesnoff, Esq., Las Vegas, Nevada*
89. Do not refer to woman who are lawyers as "lady lawyers." There is no distinction between male and female lawyers. – *Katherian Roe, Esq., Minneapolis, Minnesota and Abbe Smith, Esq., Washington, D.C.*
90. Clients and supporters should always be well dressed in court.
91. Do not worry about the arrogant adversary because arrogance is the last hiding place for ignorance. Fear the humble lawyer whose quest to learn from others is never ending. – *Brian J. McMonagle, Esq., Philadelphia, Pennsylvania*
92. Don't take risks with people who have less to lose than you.
93. Own your mistakes and apologize when necessary. You'll be cloaked with greater credibility.
94. Learn who the winners in the profession are and hang with them.
95. Network. Network. Network.
96. Sometimes the best learning opportunities come from your losses and setbacks.
97. Always assume that you are being recorded.
98. The worst feeling is losing a case because of something you didn't do. – *James A.H. Bell, Esq., Knoxville, Tennessee*
99. Be prepared to answer the frequent question; "How can you represent someone who you know is guilty?"
100. Always remember "why" you became a criminal defense lawyer. It will carry you when most needed.

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