



Victim's Rights by Scott D. Abel

Criminal defence lawyers often face difficult questions by the public. People want to know how they can work for individuals who are accused of doing terrible things. The public wonders if defence lawyers are happy when a guilty person goes free on a technicality.

The reality is that criminal defence lawyers are an extremely important part of the Criminal Justice System. An accused person faces a fight against all the resources of the Government, including the police and the Crown Attorneys office, building a case against them. They face a very serious and life-changing outcome even if they are not imprisoned. Every accused person is entitled to have their rights as set out in the Charter of Rights and Freedoms respected, but they may not be aware of the subtleties of these rights or even when they have been breached.

Defence lawyers are important to keep the Criminal Justice System fair. It is frustrating for the public to see a guilty person get away with a crime and that leads to anger at the system. But

the old legal adage is that it is better that ten guilty people go free than one innocent person be convicted.

The important role of the criminal defence lawyer has been made clear in the recent media coverage about the Ontario pathologist Dr. Charles Smith.

In Toronto, the Chief Coroner released a report expressing serious concern about some of the cases Dr. Smith worked over many years. The report claims Dr. Smith made errors while conducting autopsies.

Over the years, Dr. Smith presented evidence at numerous murder trials with respect to his opinion as to the cause of death of the victim, usually a child. In many cases, it was a parent charged with their own child's murder.

In many cases his evidence helped lead to a conviction. The question is what if he made errors conducting autopsies in these cases, and an innocent person was convicted of killing their own child? It is difficult to imagine a more horrific

scenario than that. Not only to lose a child, but then to be seen by the public as the killer of your own child and to be imprisoned as a result is unimaginable.

As the details of some of these potential wrongful conviction cases are becoming public, it is clear that in some very astute and through defence lawyers helped to bring to light some concerns about Dr. Smith. Some called other experts to contradict Dr. Smith and point out problems with his evidence. Some lawyers took the time to gather other examples of his discredited evidence and used it against him in Court.

Without this hard work by their lawyer, an accused person would have a very difficult trial. Judges and juries would obviously be very impressed with expert testimony by such an experienced medical specialist. An accused person representing themselves may not have any idea how to rebut that strong evidence. This is exactly where a good criminal defence lawyer is a necessity.