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2015

The Essential Law Careers Guide

#1

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Crime

Criminal solicitors advise and appear in court on behalf of both accused persons and the prosecution, handling the full spectrum of offences, from minor motoring misdemeanours to more serious crimes, including murder. They deal with all aspects of the criminal justice system, from the initial police interview to trial before the court.

James McSweeney's career path to his current role at a US law firm was somewhat unconventional. James is as an associate in the London office of Arnold & Porter, but in fact qualified as a barrister before crossing over and taking a position there. And he is not alone: several other lawyers at Arnold & Porter trained at the Bar and he claims that it is becoming an increasingly popular route.

"It's not really that peculiar, either in my team or among American firms as a whole," he says. "I know of two others that have quite a strong contingent of barristers and I can only see that growing. With the pressures on the criminal Bar at the moment, coupled with the quality of the work at a firm like this, it becomes quite an attractive option for lots of people."

Although James' role is identical to that of an associate solicitor, there is less opportunity for advocacy than at the Bar or as a solicitor practising in general crime. The fact that he works in the white collar crime department also means that his day-to-day work diverges from that of many other criminal solicitors, where advocacy is very common. However, James goes on to suggest that in reality, these differences are not as great as they may first appear.

"The principles of practising in economic crime are exactly the same as those in general criminal law," he explains. "The work is largely the same. It is developing case theory; handling the technical aspects

of criminal litigation, such as disclosure, as well as issues such as confidentiality and privilege; and all the usual sorts of problems that arise during the course of a criminal trial. There is also a lot of document review and analysis of materials, as well as dialogue with the UK prosecuting authorities, such as the Crown Prosecution Service and the Serious Fraud Office, and regulatory bodies such as the Financial Reporting Council."

“You have to be able to think very quickly on your feet, as well as being resilient – circumstances can be quite harrowing”

James admits that the main difference between practising in a City law firm and becoming a traditional criminal solicitor is who is paying. The publicly funded aspect of the criminal legal system – even before it was being squeezed by legal aid cuts – was not known as one of the more profitable legal areas; whereas insofar as white collar crime is concerned, companies are likely to have a defence budget as part of their general litigation expenditure.

Not only that, but junior associates – and to a lesser extent, trainee solicitors – involved in more general crime work can expect long working hours and late nights attending client meetings at police stations and prisons, with little or no preparation time. It is a high-pressure working environment that many find challenging, but intensely rewarding. For those interested in criminal matters who might prefer a more structured practice, James suggests that his specialty may be the perfect choice.

"The beauty of practising in white collar crime is that you have the luxury of time,"



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he explains. “You can go through the case theory and consider strategy and approach; whereas at the Bar or as a junior solicitor, you may only have 15 minutes to look through the papers to decide on the best course of action before appearing in front of a judge. The litigation we deal with is sprawling. Investigations take years rather than weeks, and the trials last months, not days. There’s a real scale issue and that affords you a bit of luxury in terms of time. But again, the concepts are exactly the same, and the hours and pressures are the same as in any other City firm.”

Matters that James has dealt with recently include instructions from a large software company in relation to an \$8 billion fraud, and the firm’s involvement as the lead criminal adviser to Management and Standards Committee of News Corp with regard to the ongoing police investigations and inquiries into matters arising from former subsidiary News International. “It is exposure to a set of clients that I wouldn’t have had unless I’d been at the Bar for 20 years,” he enthuses. “While I do miss the cut and thrust – the daily advocacy and the challenges that brings, as well as dealing with a multitude of clients every single week – to be exposed to the type of work I’m doing now would have taken years at the criminal Bar.”

While Arnold & Porter only takes on two trainees every two years, they are likely to be given a fair bit of responsibility early on, says James: “There’s no real divide between the senior and junior associates and who does what. It’s quite a collegiate atmosphere in terms of our spread of work. Trainees may well be given research tasks, some document review or drafting. It’s also possible that they’ll be asked to sit in on client meetings or meetings with prosecuting authorities, and there may well be some direct correspondence for which they would take responsibility.”

To succeed in criminal law, particularly in general criminal practice, young lawyers should be able to adapt and change with the circumstances, warns James. “You have to be able to think very quickly on your feet,” he adds. “You have to be resilient as well – circumstances can be quite harrowing. You need to be able to disassociate your emotions from your professionalism.”

James also admits that it can be hard to find work experience in criminal law, as most pro bono offices or law clinics, such as the Free Representation Unit, rarely handle substantive criminal matters, but tend to focus more on housing and social security-related work – although these can be excellent in terms of gaining advocacy experience, which is essential for criminal solicitors these days. He also suggests organisations such as the Innocence Network UK and Liberty as places to gain a good insight into the way the courts and prison system operate.

In terms of white collar work, experience is even harder to come by, short of making sure that you get the most out of any vacation scheme you secure by picking the brains of the people at the firm. It’s also important to keep abreast of the changes that are taking place with the regulation of companies. “This is still a burgeoning area of practice and there is an awful lot going at the moment,” James points out. “With the introduction of deferred prosecution agreements and the bolstering of investigative powers for prosecutorial agencies, there is a move towards more of a US-style corporate prosecution culture here. Those things are quite interesting topics, and if anyone displayed an interest in those topics at interview or during a vacation scheme, it would certainly impress.”