

TV A LAWYER OR NOT TV



HOW LAWYERS
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IN THE WIDER
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THE MEDIA.

BY BLAIR BOYER

The fact that lawyers, like politicians and the police, have their own canon of jokes coined at their expense is indicative of their standing in the community.

Yet in many regards it remains a love-hate relationship, with the admission that you are a lawyer still capable of arousing a degree of envy from the audience, if only because it would give them some satisfaction to announce this to guests at a dinner party.

Of course, qualitative data on the subject of the community's perceptions of lawyers is scarce. The truth is that the legal fraternity probably prefers it that way; a vox pop in Bourke Street Mall would yield predictable critiques from members of the public more than happy to perpetuate stereotypes almost as old as the profession itself.

The question that lies at the heart of this subject is "do these stereotypes still ring true?". Unfortunately, a definitive exploration of this matter is beyond this article's reach, although the fact that many of the classic legal stereotypes propagated by the public operate on a purely superficial level suggests an equally superficial analysis will go some way to proving their accuracy or inaccuracy.

Despite many members of the public deriding lawyers with the kind of fervour that would normally indicate a protracted and unpleasant association, most people never engage a solicitor. And if they do, the chances are it is for a minor conveyancing matter. Surely this signifies a tendency among the public to adopt the wider, homogenised opinion of lawyers and express it at every opportunity.

The "tall poppy syndrome" goes some way to explaining this very Australian habit: lawyers abound in many influential and

well-paid walks of life and they are inordinately represented in politics and business.

The salaries paid to top barristers and solicitors have long been a source of mirth among middle and low-income earners who feel that billing practices adopted by firms encourage overcharging, and that it is this overcharging that inflates lawyers' salaries.

One of the most common stereotypes of a lawyer in contemporary television focuses on the perceived habit of "rounding up" billed units – which, in their own right, are a source of incredulity from those who believe such accountability is oppressive and a personification of all that is wrong with the modern workplace.

There may be a grain of truth in these beliefs; certainly, the use of timesheets that necessitate a record of every five-minute block of the working day promotes chargeable units rather than non-chargeable units. After all, the purpose of a timesheet is to monitor and record the productivity of the fee earner, and in a law firm the productivity of a lawyer is gauged by the number of units they bill.

Herein lies the real source of public disgruntlement: it is understandably hard on occasions to reconcile the fact that lawyers are charged primarily with a duty to the court yet they are employed by businesses that, ultimately, answer only to their bottom lines.

There is a perception in the public arena that these duties are often opposed in nature and therefore irreconcilable.

Furthermore, the right to a fair trial – though an oft-touted tenet of our legal system – is misunderstood by many who ask "how can they [the lawyer] act for somebody like that?" (They are referring to the defendant, usually an alleged criminal who appeared on the front page of the *Herald Sun* the day

before). A little public education on the importance of a fair trial in our judicial system would resolve much of this confusion and temper the perception that all lawyers are mercenaries, or “guns for hire”.

In 2002, the American Bar Association (ABA) commissioned a consumer research report into the public’s perception of lawyers.

The findings were predictable, and showed that lawyers were commonly regarded as “greedy, manipulative and corrupt”. Furthermore, the households and focus groups surveyed told stories of “lawyers who misrepresent their qualifications, overpromise, are not upfront about their fees, charge too much for their services, take too long to resolve matters, and fail to return client phone calls”.

Despite these negative findings the study also concluded that Americans believe the law is a “good and even respectable career”.

These antithetical findings can be explained by the fact that “the public does not divide greatly in its views of lawyers. Rather, the same people hold both negative and positive views of the legal profession”.

This highlights both the complexity and intransigence of the public’s perception of lawyers. It is not simply a matter of concentrating efforts on that section of the community that harbours negative views, for research has shown that those who believe the law to be a “respectable career” also consider lawyers capable of greed and manipulation.

Although some of the stories that alleged greed, manipulation and corruption in the profession were undoubtedly true, the most effective tool in shaping the public’s opinion of lawyers is the mass media.

Tabloid newspapers and commercial current affairs programs adopt the stereotypes held by readers and viewers in the knowledge that people prefer their views be reinforced rather than challenged. The correlation between the media’s portrayal of lawyers and the public’s perception of lawyers is made more interesting in light of the fact that an ABA poll of the public’s confidence in American institutions showed that, out of the 10 institutions polled, people were least confident in the media (16 per cent) followed closely by lawyers (19 per cent).

Nevertheless, most of us are content to form our own opinions based on the information we receive from television programs (both informative and purely entertaining in nature), a trend that is facilitated by our obsession with law-themed television.

Programs such as *LA Law*, *Law & Order*, *Ally McBeal*, *The Practice* and *Boston Legal* have rated among the most popular on television over the past two decades and have affected the public’s perception of the legal profession. As opposed to current affairs and tabloid journalism, it appears that dramatic and comedic portrayals of lawyers in more recent times have acted to “flesh out” the two-dimensional stereotypes perpetuated by the news media.

University of Wollongong Faculty of Law lecturer Cassandra Sharp, in an article for the university’s Legal Research Centre titled *Lawyers with Heart: An Oxymoron or unrecognized legal identity?*, draws a line between the public’s perception of lawyers and the image that is conveyed by the media through the television program *Ally McBeal*, which last aired here in 2002.



Ms Sharp notes that “the generation and perpetuation of meaning about lawyers is an inevitability . . . whether or not the representations are accurate”.

Sharp suggests that a new generation of law-themed TV shows is acting to moderate the unwaveringly one-dimensional image projected in the past.

“Since the time . . . *LA Law* hit the small screen, legal dramas have increasingly portrayed lawyers as complex characters. Compared with earlier times where one-dimensional characters would fit within the traditional dichotomy of heroes and villains, the lawyers in contemporary dramas are multi-dimensional with traits including ambition, determination, greed, sophistication and sensitivity. Contemporary television lawyers display strong argumentative skills in their work and yet often fail to articulate themselves in personal or social situations. These more ‘human’ characters have private lives that extend beyond the law and very often interfere with their practice of law.”

The truth is that the public’s knowledge of the legal profession is not commensurate with its profile in society. Despite popular culture being filled with references to the law, most people have a superficial understanding of the profession.

To declare, as a lawyer, that “people should know more about what I do!” would, quite rightly, be regarded as egotistical and would serve only to further sully the profession’s reputation.

However, the fact that people demand such professional and ethical behaviour from lawyers could be construed as

hypocritical in light of the public’s failure to attain a more authentic and thoughtful understanding of the profession.

In fact, the ABA’s report found that “to some extent, negative perceptions of lawyers moderate as consumers consider the constraints that lawyers operate under”.

As Ms Sharp noted, a new breed of television programs – although rarely realistic when depicting an average day at the office – are portraying lawyers in more three-dimensional tones.

Few professions are so loved and loathed as the legal profession.

The popularity of legal-themed books, movies and television programs has endured despite the public’s penchant for lawyer-bashing.

This shows the begrudging respect that lawyers are afforded despite the volumes of jokes crafted to express what, on the surface, is an unconditional dislike of the profession.

The most recurrent criticisms voiced by consumers in the ABA’s survey were that “lawyers are more interested in winning than in seeing justice served” and they “spend too much time finding technicalities to get criminals released”.

Undoubtedly there have been instances where these criticisms have rung true, but they also reflect a lack of education on the nature of our adversarial system and the lengths to which it must go in the quest for justice. ■

Blair Boyer completed articles at Secombs Solicitors in 2006 and recently returned to Melbourne from travelling.