

Public Defense

Papers from the Executive Session on Public Defense

Cultural Revolution: Transforming the Public Defender's Office

By Robin Steinberg and David Feige¹

Public defenders everywhere are beginning to reassess the most fundamental questions of what it means to provide effective representation for clients. Frustrated by the limitations traditionally imposed by government funders who seek to satisfy minimal constitutional requirements, public defenders are asking themselves if there is more they can do for the clients and communities they represent. By changing the way public defenders see their clients, their communities, and themselves, we can fundamentally alter the relationship among the three for the benefit of all.

Even talking about changing what public defenders do and how they define their roles is liable to terrify most managers of public defender offices. Our culture is so ingrained and traditional that calls for cultural change are usually met with statements like, "My lawyers won't do that," "My funders won't let me do that," "My community isn't interested in that," or "It sounds great in practice, but it'll never work for me."

This bulletin is designed to do two things: provoke a discussion about the most basic values of the public defender

culture in order to create a desire to reevaluate these values and provide a set of concrete suggestions by which public defender managers can move an office from the traditional model to a more holistic one.

Values of the Public Defender

Traditional Defender

The traditional defender office is lawyer driven and case oriented. The public defense culture centers on a small cadre of trial lawyers esteemed for their trial skills. The obsessive focus on the trial as the crowning achievement of the public defender leads inescapably to the privileging of the canny trial attorney and the undervaluing of the caring and effective advocate focused on both the client's legal and extra-legal needs. Traditional defenders address themselves primarily to the client's immediate legal needs, believing that removing or reducing the imminent threat of incarceration is their function. Social work intervention, where it exists, is limited to helping lawyers achieve case dispositions for clients. Once a case is over, so is the relationship

This is one in a series of papers developed with some of the leading figures in public defense during their periodic meetings at Harvard University's John F. Kennedy School of Government. These 30 members of the Executive Session on Public Defense (ESPD) included state public defender leaders, assigned counsel managers, a prosecutor, a legislator, a social worker, a journalist, and criminal justice experts. In their discussions and resulting papers, they tried to rethink the field of public defense—challenging conventional wisdom and exploring new ways to serve clients and society.

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with the client—at least until the next arrest.

In the traditional model, the communities that the clients come from are generally ignored. Clients are seen most often in the courthouse rather than the office. Family meetings are rare, and long-term involvement with schools or community organizations is unheard of. Any sense of community that exists is within the courthouse.

Client-Centered Defender

By contrast, the more holistic model of representation is client focused, interdisciplinary, and community based. Lawyers in these offices see a client's legal needs as a starting point. So, if a client faces robbery charges, she may also be in an abusive relationship and have a drug problem. Instead of focusing on just the robbery charge (or case) as a traditional defender might, an advocate in a more holistic environment may simultaneously address the abusive relationship and substance abuse issues in addition to the legal ones, whether or not they initially appear to be related.

Because of the focus on the whole client, social workers and investigators are part and parcel of what the lawyer does. Holistic offices recognize that social workers and investigators often have the best perspective on the client—investigators because they spend time in the communities that the clients come from and social workers because they are trained to assess client needs and provide social services when

appropriate. By integrating lawyers, social workers, and investigators into a working unit, a holistic model is able to better assess and serve client needs.

Finally, by being community based, the holistic model is seen as part of the larger community. These offices become a resource for the community and forge powerful relationships with community groups and organizations. Whether responding to the criminal justice concerns of the community, doing a workshop at a local high school, or working with a treatment center to ensure that clients have access to limited bed space for treatment, holistic offices work collaboratively with the community to enhance services for clients and add to the vibrancy of the community.

Trial skills and aggressive courtroom advocacy remain a mainstay of a client-centered defender organization. The goal is not to diminish zealous legal practice, but to augment it. Because much of the client-centered work occurs outside the hallways and stairwells of the courthouse and inside the communities and families of the client, it does not interfere with courtroom advocacy. So, by bringing to bear all the weapons in the arsenal of criminal defense work and blending them with the humanizing and compassionate elements of the client-centered approach, powerful advocates find themselves even better equipped to simultaneously engender compassion from judges and acquittals from juries.

Transforming Traditions

The culture of an office is often so ingrained in the way things are done that it becomes invisible. Tradition, fear of the unknown, and inertia conspire to make cultural change seem impossible. It is not. Changing the culture of a public defender office requires clear vision, shared investment, and sustained momentum. What motivates many public defenders—the reason many of them went into the work in the first place—is the engine that can drive officewide cultural change.

Many public defenders come to the work with the desire to help people, create a better criminal justice system, and make a difference. In almost every office there is a “true believer” and there are lawyers who want to do more—to reach farther into clients' lives and communities and make a difference in the lives they are sworn to defend. And it is these lawyers, backed by thoughtful and directed management, that can move a public defender office forward and change its culture from the traditional model to a more client-centered one. The change is not easy, and it is certainly not quick. But with persistence and patience, it can happen.

What follows is a series of questions and suggestions for transforming the culture of a traditional public defender office into a more holistic, client-centered organization. These suggestions also serve as a guide for some of the issues and problems that are likely to be encountered on the long road to cultural change.

How can I change my office culture?

Vision. Vision is an absolute prerequisite to any change in culture. The chief defender and top management must all share a unified vision of what the office should be. All managers should be dedicated to bringing the office toward the shared goals, and each



The Executive Session on Public Defense (ESPD) was designed to encourage a new form of dialogue between high-level practitioners and scholars, with a view to redefining and proposing solutions for substantive policy issues. Practitioners rather than academicians were given majority representation in the group. Meetings were conducted as loosely structured seminars or policy debates. Between 1999 and 2001, ESPD met 5 times. During the 3-day meetings, the 30 members discussed the facts and values that have guided, and those that should guide, public defense.

must be able to clearly articulate the cultural vision of the office.

It is therefore of paramount importance to commit time and resources to create this vision at the top. A management retreat designed to address the fundamental questions of what the office should be, what it should do for clients, and what it should become is a good start. Ideally, managers can agree that a public defender office is a place that exists for clients, and that its goal is both to address its clients' immediate legal needs and also to help clients confront the issues that may have initiated and contributed to their contact with the judicial system. Ultimately, the goal of the public defender is far more global than the traditional model suggests. Indeed, it is nothing short of improving the lives of those it serves. Such a vision implicitly understands that the life outcomes for clients are as important as case outcomes.

When we have the client-centered vision, how do we create an office that supports the vision?

Having come to an understanding about what the goals and vision of the office are, top management needs to devise ways to support the holistic vision. Creating teams, rearranging the physical space, and making a commitment to the community all advance the goals of the client-centered model of representation.

Create interdisciplinary work groups.

Whole client representation can best be accomplished when an office is divided into interdisciplinary work groups. This can be a challenge. Many lawyers resist multidisciplinary practices for fear of losing control and power over the case. Nothing in their law school training or prior experience fosters a collaborative work style—particularly not with nonlawyers.

Through integration and indoctrination, even the most resistant lawyer will begin to understand the value of social work

and collaboration. Lawyers understand how investigators make their work on cases possible. Without the investigators, lawyers would not have a good sense of a case, but lawyers often do not understand how social workers can support their legal work and the clients. Only by working directly with social workers, as members of a work group or team, can lawyers begin to really understand the value of social workers.

Whether assessing a client's mental health status, diagnosing a drug addiction, uncovering family violence, or simply understanding and accepting a client as he or she is, social workers provide invaluable insight about how to best help the client. In a client-centered office, courtroom goals are accomplished by allowing social workers to help convince judges and prosecutors to offer appropriate case dispositions, while also helping clients address the problems that brought them into the criminal justice system—whether case-related or not.

Interdisciplinary teams or work groups may include more than lawyers, social workers, and investigators. Law students, social work student interns, and high school students can be integrated into work groups as well. Think creatively about these valuable resources and create specific projects for them. High school student interns may tutor other high school students from the community, law students can investigate and escort clients to drug programs, and college interns can survey the community about unlawful police conduct. Including lawyers and law students who can represent clients in other legal proceedings such as school suspensions or parole hearings or civil litigators who can help with public benefits, housing, family court, and immigration will greatly enhance the office's service to clients and will educate other team staff about the problems that clients face outside the criminal justice system. Ideally, interdisciplinary work groups form

coherent, powerful voices for clients that expand our understanding of client needs and help us address them effectively.

Create a physical environment that supports your holistic vision. How an office creates and uses space speaks volumes. The space reflects the vision, assumptions, and commitments of the public defender office. In structuring the office, defender managers must think about the internal use of space by both staff and the client/community. The internal space—where one makes decisions from moment to moment while representing clients—should be carefully designed to encourage collaboration. Placing lawyers, social workers, and investigators in equal spaces, assigned not by role but by work group, supports a culture that strongly values social and investigative work.

Public space—that occupied by clients, their families, and community members—should be designed to move office culture in a positive direction. Imagine walking into a public defender reception area/waiting room with plastic chairs bolted to the floor, graying walls, a receptionist sitting behind thick security glass with a buzzer system and locks on the doors. The message is clear: clients are to be controlled and feared.

Instead, create space that reflects a new office culture that is open, warm, and welcoming. Small things like magazines for clients, toys for their children, and a water cooler can make all the difference. In addition, the design should minimize barriers between clients and the staff workspace. If it can be done without doors, so much the better. The new message is clear: clients are welcome here and we exist to serve their needs.

Focus on community outreach. Public defenders must do more than be vaguely aware of the communities that clients come from. They must be active in the communities. For example, the Dade

County Public Defender Office runs an anti-violence project. The Public Defender for Albemarle County and the City of Charlottesville has established a citizen's advisory committee, and the Bronx Defenders runs a debate center for local high school students. These programs serve a number of functions, both political and cultural. From a political perspective, outreach affords the office an opportunity to raise its profile in the community. From a cultural perspective, by engaging with the community, public defender staff see clients as more real and more human.

It is amazing. Send an otherwise trial-focused lawyer to sit at a card table at a local middle school's career day, and you will find that a day of talking to eighth graders, some of whom have never seen a lawyer before, can make a tremendous impact. Of course, the lawyer's presence is great for the kids and wonderful for the school, and the community appreciates knowing that professional and compassionate advocates are available to them. However, the impact on the community is only the beginning. The lawyers are deeply affected as well. Even an attorney steeped in the traditional model will return from his or her visit deeply aware of the myriad hurdles that everyday life presents for those he or she represents. That knowledge, in the vast majority of the lawyers, impels them to be more sensitive to client needs and more effective in communicating the essential humanity of their client to both the prosecutor and the court. Ultimately, exposure to the community makes lawyers both more effective and more sensitive—two things that are traditionally viewed as incompatible.

I am committed to the vision, have built a welcoming space, ventured out into the community, and am ready to go. How do I get my staff on board?

E-Mail Praising Client-Centered Victory

From: Laura
Sent: Friday, April 27, 2001, 9:57 a.m.
To: Defenders
Subject: Holistic Advocacy

I wanted to let everyone know about the great work that Joy has done. Joy was working with a 16-year old client of Andre's who took a plea to complete a sex-offender treatment program. However, because the case was in criminal court, there was a problem about who would pay for the program. The plan was to try to get the Board of Education to pay for the program. So with the help of information provided by McGregor, Andre and Joy went to a hearing at the Board of Education to advocate for the client so that the Board of Education would pay for the \$90,000/year program. Well...

Guess What?...They were informed that the Board of Education would be able to pay for the program and so the client will be entering the program in mid-May.

A fitting farewell for Joy who has done exceptional work during the year. This is not to take away from Phillip—our resident sex offender program expert.

Hearing this news really makes what the client advocates do a fulfilling experience. Getting a client into a sex offender treatment program is exceptionally hard, and it's even harder figuring out who will pay for the program. Joy's tireless efforts and advocacy really turned a bad situation into a winner. The collaboration between Andre, Joy, and the family is really what this work is about.

So congrats Joy! Thanks for the great work and for a great year.

Reinforce client-centered values in the office community. Getting staff to buy in to the new office culture requires a conscious effort to change the priorities of the office by rewarding and encouraging new and different kinds of lawyering.

Many traditional defenders resist change because it seems to yield no obvious benefit. As managers, we dole out goodies all the time. The allocation of praise can begin to make a difference. It is as simple as this: instead of only celebrating an acquittal, send out congratulatory e-mails or make congratulatory announcements about other client-centered victories—a great plea, a client successfully completing a drug program, or a client who just got his first paycheck from a new job one of your lawyers or social workers helped her to find. The above e-mail came as I was writing this.

The public acknowledgment of client-centered triumphs goes a long way toward setting the tone of the office, and it makes everyone feel good.

Expanding outside training opportunities to nonlawyers supports a culture that values social work, investigative work, and community development efforts. Likewise, think about sending lawyers to trainings that usually target nonlawyers. Educating lawyers about the problems that our clients face—mental health issues, drug addiction, learning challenges, and family violence to name a few—through outside training brings them into contact with experts from a variety of fields and further sensitizes them to our clients and the work that social workers do on their behalf.

Not everyone is committed to the client-centered community. What can be done to eliminate resistance?

There are certain to be resisters and people who are unhappy. Some old-school trial jocks may find this approach too “touchy feely” and may quietly refuse to change or help. Do not give up on them, but remember that there is always turnover and turnover brings both turmoil and opportunity. Take the opportunity to hire staff who support your new vision. And remember, this is a long process.

Hiring. Hiring is one of the most important parts to changing office culture. New people, regardless of their role within the office, should share the new vision. From the receptionist, who is an exoffender, to the lawyer raised within the community, every aspect of the hiring process should reflect the new vision. It is not easy, but again, it can be done. Here’s how all office staff can assist in the hiring process.

Use your current staff. Ask lawyers, social workers, and investigators who share a client- centered vision to reach out to people they know. You will be amazed at how many like-minded people are out there.

Manage outreach opportunities. When you decide who goes to outreach opportunities, think carefully about who you send. Make sure that he or she can articulate the new office vision and excite potential candidates.

Write a new advertisement. Carefully craft an ad that reflects the new values of your office. Talk directly about teamwork and commitment to social justice in the text of the advertisement (See sample advertisement).

Sample Advertisement

The New Vision Public Defender Office Seeks Compassionate, dedicated lawyers with excellent litigation and counseling skills who are committed to clients, their communities, and social justice. Send inquiries to Executive Director, NVPD.

But outreach and advertising efforts only bring in the candidates. Once they apply, think about new ways to evaluate candidates that are consistent with your new vision.

Create a hiring committee. When you put together a staff hiring committee, include people who share the new vision and remember to include nonlawyers in the group. A belief in client-centered advocacy should become the new litmus test for hiring. Think about ways to conduct the interview that tests an applicant’s ability to work in and support holistic lawyering. You may want to change the interview process from requiring a candidate to do an opening statement, conduct a cross examination, and give a summation to having a candidate interview a client, create community outreach ideas, and moot a dispositional conference with a judge and social worker.

Use the new criteria for everyone. When thinking about hiring, it is not enough to focus on the lawyers. Hire staff in all office roles who share the vision. The receptionist, administrative support staff, and other office workers have a lot of contact with clients and their families. They field the emergencies and take the phone calls from frightened clients. They are the ones who see the client who shows up at the office without an appointment and when the lawyer is unavailable. They correspond regularly with clients and family members. How they respond to clients and other staff will greatly affect the internal culture of a public defender office and the client’s experience with the office. When each staff member shares the vision, believes in the clients, and respects the community, the client-centered culture thrives.

For example, Anthony is mentally ill, and he has been in and out of mental hospitals since he was 6 years old. When he is incarcerated, he calls the Bronx Defenders two or three times a day. None of the lawyers has time to chat with him

that often, but Jennifer, the receptionist, is never rude or dismissive. Instead, she routinely finds one of the dozen lawyers, social workers, investigators, or team administrators who know Anthony, so that he can talk to someone. When that fails, she chats with him herself—if only to find out how he is, how he is feeling, or to reassure him.

Promotions. Traditionally, the most talented trial lawyers in a public defender office are promoted to management, which makes sense. They have credibility with other lawyers and are revered for their aggressive advocacy skills. However, to move a traditional defender office to one that is more client centered, defender leaders need to redefine the skills that will be most valued. In the holistic office, promoting lawyers with great lawyering skills is not enough; instead, collaborative work with social workers and investigators, involvement in community outreach efforts, and the establishment of significant relationships with clients and their families are additional factors that should be considered in determining promotions. When a lawyer has both sets of skills, the choice is obvious. In most cases when the best choice is not so well-defined, it is important to choose the candidate who best supports the new cultural values of the office.

The holistic office is built, the dream staff is hired, relationships in the community are established, and the office culture is changed. Is there anything else that should be done?

Listen to clients. Listen to clients. It is that simple. Clients know when caring, effective advocates have represented them and when they have not. Ask clients about their experiences with your office, the criminal justice system, and the police in their communities. Many lawyers believe that a client’s experience is only related to case outcomes—nothing could be farther from the truth. When client-centered advocacy is practiced, even

clients who go to prison often feel cared for, well represented, and empowered. Create ways to hear their voices, their criticisms, and their praise.

There are a number of ways to get feedback. You can create a client satisfaction survey, conduct focus groups with former clients, or put a simple cardboard suggestion box in your reception area. What clients say about the office and their representation will have an enormous impact on the staff—perhaps more impact than anything even defender managers say. Face it: public defenders are notoriously antiauthoritarian. It is the characteristic that makes them brave and great in a courtroom when faced with a tough judge, prosecutor, or police officer. But that trait makes it difficult for defender managers alone to persuade staff that change is necessary and desirable. Client and community feedback, on the other hand, have enormous power. Staff will be interested in clients' comments—especially in their praise—and this will go far in helping defender managers create a new culture and move their offices toward a new vision for public defense.

A letter like the one to the right, from a client's wife, can encourage staff, support your vision, and help, in its own small way, create a new culture. It is easy to forget that somewhere among your staff someone is really being appreciated.

Conclusion

Changing office culture is a process that requires vision, commitment, and patience. Some changes come easily and quickly, like filling your waiting room with magazines that interest clients and toys that will engage their children. And some changes are slow, like expanding the role of the public defender to include community outreach and education. But fast or slow, it is worth the effort because everyone benefits.

Letter to the Bronx Defenders

I can still remember the day that I walked into your office asking for your help. I remember seeing the pictures on Karen's office desk with her, perhaps family or friends I don't really know. I remember thinking to myself, "they seem pretty intelligent but what is the difference between them and those other guys?" Well, I consider myself a pretty good judge of character, and I remember having a good feeling about you both and as the conversation progressed I knew what the difference was. You looked John in the eyes when you spoke to him, as if he were an actual human being standing in front of you, not like the others did who spoke with a blank look on their face as if there was no one standing in front of them. Wow, that was amazing. You asked about his family and I could tell that you actually really cared, I knew then we were at the right place.

I've always wanted to be a lawyer. It fascinates me and seeing you both standing there tall, proud and confident about yourselves just made me want it even more (so much more that I went back to school to finish my bachelor's degree and eventually go to law school).

... I realize that John still has to do time. However, I believe that it is needed time. He has some growing up to do and I think that this is where he will finally become the man that he needs to be (please don't tell him I said that).

I just really from the bottom of my heart would like to thank you guys for all of your help and for treating us like human beings. You actually made us feel special, as if we really matter. You know that there are times when I actually feel that we were the only clients you guys had because of the attention that you gave to us. I say "we" because Damian called me numerous times to give me the progress of the case and returned every single one of my phone calls. If you can manage to have hundreds of cases and make people think that they are the only one's there, let me tell you you've gotta be pretty darn good.

If my thoughts in this e-mail seem vague and disorganized, please realize that I am at a loss for words trying to explain my gratitude towards you both (and the rest of the very nice people in your office) for what you have done for my family. It really means a lot to us. I want to say so much that perhaps I said nothing, but for whatever it's worth, when I do become a lawyer I want to be just like you guys. You have been an inspiration to me. Keep up the great work!

Some public defenders may be resistant to change. They may be set in their ways. But within every defender office, there are people who care about clients and their communities. Changing the culture of a public defender office is nothing more than privileging the values of those who care and making them universal. It takes commitment and it takes time, but it is good for clients and underserved communities and even good for public defenders. Creating a client-centered public defender office can change the way you see the work, and

ultimately, in some little way, perhaps the world.

Note

1. Robin Steinberg is the Executive Director of the Bronx Defenders and David Feige is the Supervising Trial Attorney of the Bronx Defenders. The authors wish to thank Mary Hoban, Chief Social Worker of the Office of the Chief Public Defender for the State of Connecticut, for her contributions to this paper.

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