

CULTURAL REVOLUTION: TRANSFORMING THE PUBLIC DEFENDER'S OFFICE*

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Public defenders everywhere are starting to reassess the most fundamental questions of what it means to provide effective representation for their clients. Frustrated by the limitations traditionally imposed by government funders seeking to satisfy minimal constitutional requirements, public defenders are asking themselves if there is more we can do for the clients and communities we represent. By changing the way we see our clients, their communities, and ourselves, 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. Public defender culture is so ingrained and traditional that calls for cultural change are usually met with responses such as, “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 article is designed to do two things: to provoke a discussion about the most basic values of the public defender culture in order to create a desire to reevaluate them; and to provide a set of concrete suggestions by which public defender managers can move an office from the “traditional model” to a more “holistic” one.

I.

VALUES OF THE PUBLIC DEFENDER

A. The Traditional Defender

The traditional defender office is lawyer-driven and case-oriented. The 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 over the

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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 is left to the "girls," not the real men. Social work intervention, where it exists, is limited to helping the lawyers achieve case dispositions for clients. Once the case is over, so is the relationship with the client—at least until the next arrest.

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

B. The Client-Centered Defender

By contrast, the more holistic model of representation is client-focused, interdisciplinary, and community-based. Lawyers in these offices see the client's legal needs as a point of departure. So while it may be true that a client is facing robbery charges, it may also be true that she is in an abusive relationship and has 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 might simultaneously address the substance abuse issues and the legal ones, whether or not they initially appeared to be related.

Because of the focus on the whole client, social workers and investigators are part and parcel of what the lawyer does. These holistic offices recognize that social workers and investigators often have the best perspective on the client — investigators because they spend time in the communities from which the clients come; social workers because they are trained to assess client needs and to provide social services where appropriate. By integrating the lawyers, social workers, and investigators, a holistic model is better able to assess client needs.

Finally, by being community-based, the holistic model sees itself 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 larger 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 rather 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.

II.

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 office-wide cultural change.

Many public defenders came to the work with the desire to help people, right a wrong criminal justice system and make a difference. In almost every office there are the “true believers”—the lawyers who want to do more, to reach farther into clients’ lives and communities, and to make a difference in the lives they are sworn to protect. And it is these lawyers, backed by thoughtful and directed management, that can move a public defender office forward, changing 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 suggestions for transforming the culture of a traditional public defender office to a more holistic, client-centered organization. It is also a guide to some of the issues and problems that are likely to be encountered on the long road to cultural change.

A. How Do I Change My Office Culture?

1. 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. Each should be dedicated to bringing the office forward toward the shared goals, and each of the top managers must be able to clearly articulate the cultural vision of the office.

It is therefore of paramount importance to commit time and resources to creating 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 often a good start. Ideally, the managers can agree

that a public defender office is a place that exists for clients; that the goal is both to address the immediate legal needs but also to help the client confront the issues that may have contributed to her contact with the system to begin with. Ultimately the goal of the public defender is far more global than a traditional model suggests. Indeed, it is nothing short of improving the lives of those to whom it is assigned. Such a vision implicitly understands that the life outcomes for a client can be as important as case outcomes.

*B. When We Have the Client-Centered Vision,
How Do We Create an Office That Supports It?*

Having come to an understanding about what the goals and vision of the office are, it becomes the role of top management to devise ways to support the holistic vision. The creation of teams, the arrangement of space, and the commitment to the community all serve to advance the goals of the client-centered model of representation.

1. 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 with non-lawyers.

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 and they know that. 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 work.

Whether it is assessing a client’s mental health status, diagnosing a drug addiction, uncovering family violence, or simply understanding and accepting a client as she is, social workers provide invaluable insight into how to best provide needed help. 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 at the same time helping clients address the problems that brought them into the criminal justice system to begin with—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. It is important to think creatively about these valuable resources and create specific projects for

them. High school student interns might tutor other high school students from the community, law students can do investigations and escort clients to drug programs, and college interns can survey the community about unlawful police conduct. The inclusion of lawyers and law students capable of representing clients in other legal proceedings such as school suspension or parole hearings, or civil litigators who can help with public benefits, housing, family court, and immigration, will greatly enhance the service to clients and will educate the other team staff about the problems that clients face outside of the criminal justice system. Ideally, interdisciplinary work groups form coherent, powerful voices for clients that expand the public defender's understanding of client needs and help public defenders to address those needs effectively.

2. Create a Physical Environment That Supports a 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 both the internal use of space by staff and the client/community experience of the space. 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, is a good way to support 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 different direction. Imagine walking into a public defender reception area/waiting room with plastic chairs bolted to the floor, graying walls and 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, public defenders should 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 work space. 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.

3. Focus on Community Outreach

It is not enough to be vaguely aware of the communities that clients come from. Public defenders must do more. 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, the clients seem more real and more human.

It is amazing. Send an otherwise trial-focused lawyer out into the community to sit at a card table in a local middle school's career day. A day of talking to eighth graders, some of whom have never seen a lawyer before, can make a tremendous impact. Of course it is great for the kids. Of course it is wonderful for the school. Of course the community appreciates knowing that there are professional and compassionate advocates available to them. But 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 deeply aware of the myriad hurdles that everyday life presents for those we represent. 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 the client both to the prosecutors and to the courts. Ultimately, exposure to the community makes lawyers both more effective and more sensitive—two things that are traditionally viewed as incompatible.

*C. I'm Committed to the Vision, Have Built a Welcoming Space,
Ventured Out into the Community, and Now I'm Ready To Go.
How Do I Get My Staff on Board?*

1. Reinforce Client-Centered Values in the Office Community

Getting staff to “buy in” to the new 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. It is the allocation of those things that 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, a client who just got his first paycheck from a job one of your lawyers or social workers helped her to find. I received this e-mail as I was writing this:

From: Laura

Sent: Friday, April 27, 2001 9:57 AM

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 :)

The public acknowledgement 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 non-lawyers supports a culture that values social work, investigative work, and community development efforts. Likewise, think about sending lawyers to trainings usually targeted at non-lawyers. Educating the lawyers about the problems that our clients face—mental health issues, drug addiction, learning challenges, family violence to name a few—through outside trainings 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.

D. What Do I Do with the Resisters?

There are certain to be resisters and people who are unhappy. Some old school trial jocks will certainly find this approach too "touchy feely," and will quietly refuse to change or help. Don't give up on them, but remember that there is always turnover and in the turnover there is both turmoil and opportunity. Take the opportunity to hire staff that supports your new vision. And remember, this is a long process.

1. *Hiring*

Hiring is one of the most important parts of changing office culture. New people, regardless of their role within the office, should share the new vision. From the receptionist who is an ex-offender to the lawyer raised in 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.

a. Use Your Current Staff

Ask lawyers, social workers, and investigators who share a client-centered vision, to reach out to the people they know. You'll be amazed at how many like-minded people are out there.

b. Manage Outreach Opportunities

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

c. Write a New Advertisement

Carefully craft an ad that reflects the new values of your office. It is fine to talk directly about the teamwork and a commitment to social justice in the text of your ad. For example:

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.

d. Create a Hiring Committee

In putting together a hiring committee of staff (remember to include non-lawyers in the group) include people who share the new vision. A belief in client-centered advocacy should become the new litmus test for hiring. Think about ways to conduct the interview that test an applicant's ability to work in and support holistic lawyering. You might want to change the interview process from requiring a lawyer to do an opening statement, conduct a cross examination, and give a summation to conducting a client interview, creating community outreach ideas, and mooting a dispositional conference with a judge and social worker.

e. Use the New Criteria for Everyone

When thinking about hiring, it is not enough to focus on the lawyers. You need to hire staff in all 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 frightened phone calls from clients. They are the ones that 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 impact greatly the internal culture of a public defender office and the client's experience. When each staff member shares the vision, believes in the clients, and respects the community, the client-centered culture will thrive.

Anthony, for example, is mentally ill. He has been in and out of mental hospitals since he was six years old. When he is incarcerated, he calls the Bronx Defenders two and 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 even if only to find out how he is, how he is feeling, and to reassure him.

2. Promotions

Traditionally, the most talented trial lawyers in a public defender office get promoted to management. This makes sense. They have credibility with the 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, working collaboratively with social workers and investigators, involvement in community outreach efforts, and establishing significant relationships with clients and their families are additional factors that should be considered in making promotions. Where a lawyer has both sets of skills, there is an obvious choice. But in most cases, when a choice has to be made, it is important to choose the candidate who best supports the new cultural values of the office.

E. I Have Built My Holistic Office, Hired My Dream Staff, Established Relationships in the Community, and Changed the Culture of My Office. Is There Anything Else That I Should Do?

1. Listen to Clients

Listen to clients. It's that simple. Clients know when caring, effective

advocates have represented them and when they have not. Ask them 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 just put a simple cardboard suggestion box in your reception area. What clients say about us and our representation will have enormous impact on staff. Perhaps more impact than anything even defender leaders say. Let's face it. Public defenders are notoriously anti-authoritarian. It is one characteristic that makes them brave and great in a courtroom when faced with a tough judge, prosecutor, or cop. 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, has 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 towards a new vision of defense.

This letter arrived at 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! :

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

III.

CONCLUSION

Changing office culture is a process that requires vision, commitment, and patience. Some change comes easily and quickly, like filling your waiting room with magazines of interest to clients and toys that will engage their children. And some change is 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.

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.

