
“Changing the Narrative: How Can You Defend Those People?”

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How can you defend those people?

In 26 years as a public defender, my answer to this question has changed. Right out of law school I would respond with a righteously indignant lecture about the Constitution. Then came my avoidance phase, when I smiled and asked why it would be hard to represent innocent people wrongfully accused of crimes. The irony was that speaking on behalf of a seemingly innocent client is one of the most stressful aspects of being a public defender.

My answer is different now because I see myself, and every other public defender, as an ambassador for systemic change. We need to seize this unprecedented moment in history to end mass incarceration practices by forcing our communities to see the humanity in our clients. We can no longer waste, as I once did, our chances to teach people about our client’s dignity and humanity. We should push ourselves even further by looking for chances to tell our clients’ stories.

I recently watched Michelle Alexander’s TedTalk, “The Future of Race in America.” She spoke about the drug war on “them” and, more specifically, “them in the hood.” The public was led to believe that the “war” was on major drug dealers and violent gang members – “them in the hood.” But because many federal policies incentivized arrest numbers, law enforcement focused on stop and frisk policies that produced unprecedented numbers of arrests for low level drug crimes. And, despite research showing that black and white drug use is about the same, those policies employed on “them in the hood,” ensnared record numbers of people of color in the criminal justice system.

The idea of “them” as people with whom we have nothing in common, is critical in understanding mass incarceration. Jon Rapping, founder of Gideon’s Promise, points out that our society’s image of a “criminal” has evolved from “Butch Cassidy and the Sundance Kid” to a much darker – literally – sinister presence. We rooted for Butch and Sundance, even though they were bank robbers who shot and killed law enforcement officers. They were played by heartthrobs Paul Newman and Robert Redford. When they came out guns a blazing in the

movie's final scene, the director froze the image because no one wanted to see them die. We could relate to them.

Because many in our communities can't relate to "them in the hood," we accept draconian policies in the criminal justice system that ruin the lives of poor people and their families. As public defenders, our challenge is to get people to care about our clients. We advance that cause by telling their stories in a way that allows people in our communities to relate to them.

Years ago, I went to the jail to talk to a client about a plea offer on a felony domestic assault. Unfortunately, the prosecutor listened to the recordings of phone calls my client made from the jail to the alleged victim, during which he admitted to the assault. We were about to go through the petition to plead guilty when my client asked me whether his phone calls made the state's offer worse. "Yes," I said, which prompted him to laugh. My face apparently revealed my puzzlement, so he explained, "When we first met, you told me not to talk about the case with anyone. And when I was on the phone I even looked at the sign that said the call was being recorded, but I just couldn't help myself!" We laughed together as I wondered about that irresistible force that compels all of us to do dumb things when we know better.

The truth is that our clients are fascinating human beings with complicated, often sad lives. I am continually astonished at what life has thrown them. No one becomes entangled in the criminal justice system without a story – the context of which we need to understand, and effectively share. As a public defender, I have the privilege of hearing their stories and delving into the motivations of people who lie or are mistaken about what happened, or to try to convince a prosecutor or a judge that a mitigated sentence is appropriate.

I believe that if people knew our clients they would never ask us how we could represent them. Our mission now is to teach people why they can relate to them, so they no longer see our clients as "them in the hood" who somehow deserve what the criminal justice system has done to them. We can replace that narrative by getting our community members to see themselves in the context of a deeply flawed system. Talking about abstract rights won't get us there, however, we need to unleash our best storytelling skills.