

TEXAS CRIMINAL DEFENSE LAWYERS ASSOCIATION

# VOICE

## FOR THE DEFENSE

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# OPEN FOR BUSINESS

## Opening a Public Defender's Office: Setting the Foundation

JOE STEPHENS

There can be brilliant artistry in good lawyering. Everything that arises from nothing – say, progressing from an initial client meeting to charting a thorough defense strategy – has required at least one person in one moment to stand in front of something blank and wonder: what is the most right thing to do next?

The art lies in the repeated conquests of uncertainty, or perhaps, the ability to share space with that uncertainty yet find a way forward. The examples are many, but the one that comes strongest to mind is the anxiety we feel in those moments where trial creeps closer and closer and we find ourselves in that continual, turbulent swirl where we think we have the right words and questions and then, suddenly, on a late night drive back from a jail-visit, wonder if anything we have done is remotely adequate.

We are, in those moments, artists, and regardless of how self-critically we assess our own ability to create, that's precisely what we must do. Because, no matter how we get there – through logic or invention or some combination of the two – the time will come when we must stand and show our slew of audiences what we have prepared. And it's those moments that Gus from Lonesome Dove describes

best: "Well, here's where we all find out if we was meant to be cowboys."

Art and creation are at my perpetual forefront because I am the Chief Public Defender for an office that is barely three-months old. On December 5, 2021, there was officially no such thing as the Concho Valley Public Defender's Office. The next day there it was: grant-funded with a seven-county coverage area (centered in San Angelo), with no real playbook.<sup>1</sup> But there it was and there I was, and in that long drive to the part of Texas that really should have some significant portion named for Tip Hargrove, I began my own wondering about what it means to create.

As the year unfolds, I plan to write more about what it means to build a Public Defender's Office – successes and failures alike – but for now, I want to focus on the three areas that have been most important to our foundation.

### Figuring out who we are and what we stand for

In many ways, this will be an ongoing, ever-evolving process

<sup>1</sup> To be clear: a great deal of work preceded its official creation, all of which I had nothing to do with. There was a tremendous amount of planning and discussion that took place between the counties and the Texas Indigent Defense Commission that long predated my involvement – their vision and thoroughness deserves all the credit in the world.

– as it should be. But our leadership team has spent a great deal of time huddling, sharing and editing ideas and drafts, and zeroing in on the essence of our who we are. What does it actually mean to be our office? What our governing why is? What principles encompass all that we say and do? Being frank is a repeated exercise in radical self-disclosure as is being candid about fears and hopes along with allowing room for what arises. The process itself has been unifying and revealing.

The gravest mistake, I believe, is to rush past this into court. Appointments are easy for a Public Defender's Office to come by. What is not easy to come by is building a team of people that aspires to be more than "relevant" in court in the long-run. It takes patience, and commitment to the idea that a few months of foundation-cementing will not only pay perennial dividends, but will ward off any sort of hasty entrance into a world that existed long before you were there.

The significance here, I believe, is that an initial goal should be the development of an authentic, clearly defined set of values that becomes a constant reference point for every decision we make. This ranges from what we consider important when we hire and how we set clear internal

expectations, to drawing lines and setting boundaries – that is, creating parameters of accountability.

These critical values are ones we want our early staff to assist in creating. The values are empty words if they are thrust upon an unaccepting audience, but are powerful unifiers if they are the product of like minds working towards a shared goal. What is staggering, though, is how bonding the actual art of creating this internal pledge is. Each of us brings to the table a great deal of history that informs what we want this office to stand for. It is fascinating to see just how overlapping and simple the asks of humility, aspiration for excellence, shared passion, some combination of a kind and caring and supportive workspace are. The list is not surprising, but the act of building it has been one of the best things we have done as a young office.

### **Finding, appreciating, and celebrating your people**

In these early days, there are two leadership principles I feel lucky to have discovered. The first is striving to be the humble choreographer of everybody else's brilliance. At its most basic, it means that at any given moment, on any given subject, delighting in not being the most qualified subject-matter expert in the room. And, as importantly, feeling privileged that you have that heightened level of excellence and thoughtfulness down the hall.

Choreographing this includes focusing on creating the environment encouraging the person who knows the intricacies of how to fight court costs better. It includes encouraging the person who knows how to prepare bond writs better and the person who knows how to automate repetitive

motion creation better. It is finding and attracting this eclectic combination of spectacular minds and unleash them on the world, not to hire and stifle and ensnare.

The second principle was one that John Cage taught me when I first discovered the beautiful silence of 4:33 – let the words and questions and concerns of others be the soundtrack to your silence; gather them all. Harvest them. Explore them, pay attention to them, and let them inform what's missing, what to adjust. Anyone can walk into a room with a megaphone – sometimes, I believe, the art lies in finding comfort in listening.

Both of these principles, soft-spoken as they may appear, are active behaviors. To conflate curiosity and quietude with weakness or inaction is to misread the power of what it means to encourage the people around you to reach – endlessly, endlessly – towards their own exceptionalism, and give them the space to do so. Choreography, after all, is a noiseless practice.

### **The privilege of collaboration**

When I think of the people outside any office I have worked in who have taught me the most, I think of three: Clay Steadman, James McDermott, and Lisa Greenberg. This is not to ego-stroke, it is to acknowledge at critical moments in my career, I have been more than fortunate to be able to talk with people whose experience adds meaningful weight to their words.

I have realized I am a phone-call away from the most whip-smart people in the State. We are building a semi-enclosed entity in San Angelo, yes, but that is more a function of geography than anything else. To be able to call Paul Chambers to discuss automation, Michelle Ochoa to hone a contested MTR

practice, or Jani Maselli for any reason – it makes me tap my heart in appreciation. It is impossible to imagine laying any sort of foundation without appreciating the exceptional resources across the State that continue to redefine what it means to be generous with time and wisdom.

That brings me to a line from a book called *Complexity*, one that dives into the chaotic brilliance of complex organizations (of which, I believe, Public Defender Offices are very much a part): “The edge of chaos is the constantly shifting battle zone between stagnation and anarchy, the one place where a complex system can be spontaneous, adaptive, and alive.”

My hope is that our office thrives on this precipice – a sense of aliveness pervading all that we do, a space of controlled disarray allowing for the nonstop collision of ideas, and the solidarity that lets us smile at the acknowledgement that we are all in it together.

My thesis is that none of this happens without the time spent up front getting things right. Time will tell.



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